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(October 22, 1985—Idaho, North Carolina, Pennsylvania, Wisconsin)

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HEARING

BEFORE THE

SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS

OF THE

COMMITTEE ON SMALL BUSINESS HOUSE OF REPRESENTATIVES

NINETY-NINTH CONGRESS

FIRST SESSION

WASHINGTON, DC, OCTOBER 22, 1985

Printed for the use of the Committee on Small Business

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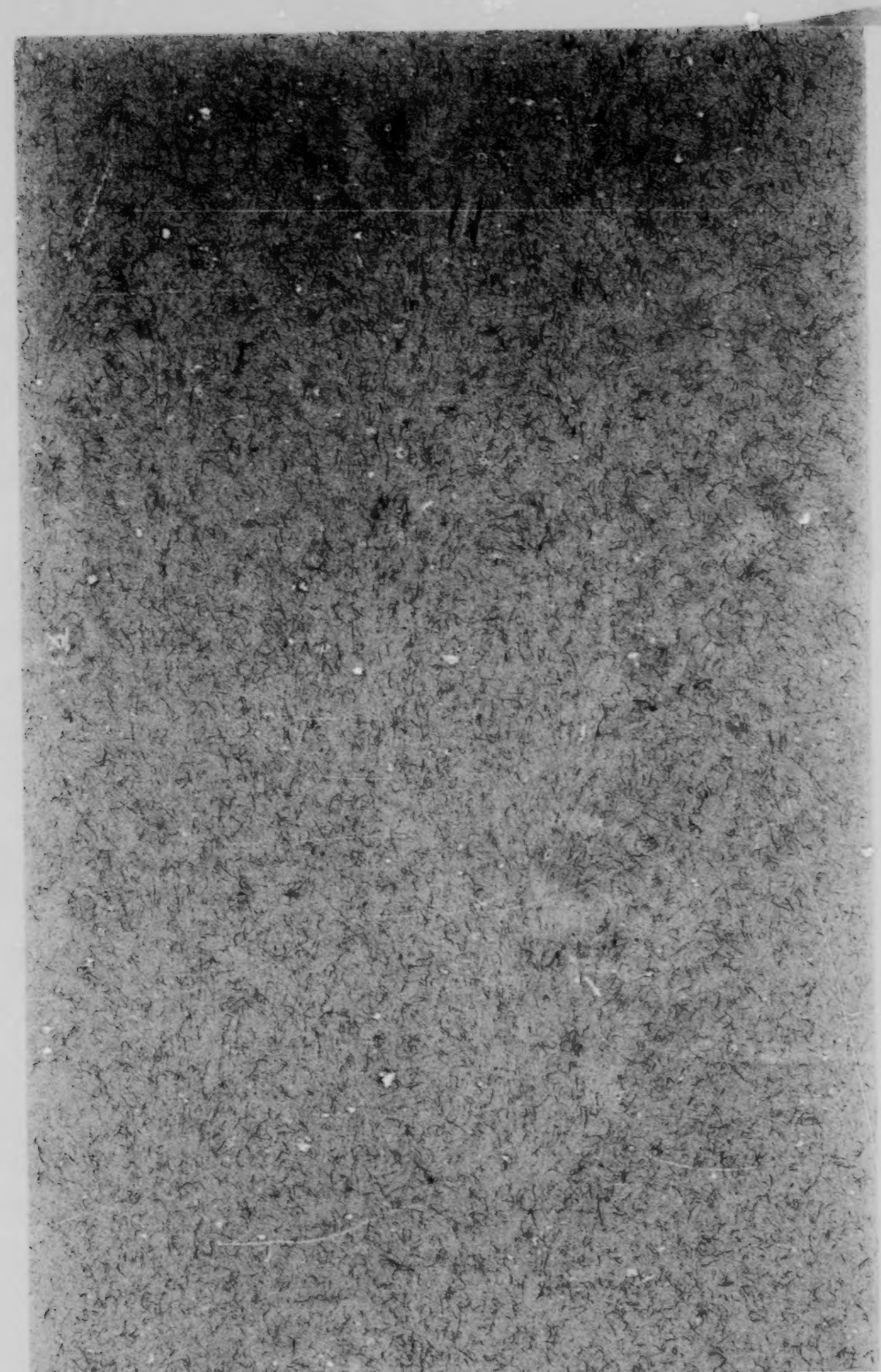

REVIEW OF THE 10-PERCENT SET-ASIDE PROGRAM (SECTION 105(f)) OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

(October 22, 1985—Idaho; North Carolina; Pennsylvania; Wisconsin)

HEARING

BEFORE THE

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WASHINGTON, DC, OCTOBER 22, 1985

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REVIEW OF THE 10-PERCENT SET-ASIDE PROGRAM (SECTION 105(f)) OF THE SURFACE TRANSPORTATION ASSISTANCE ACT OF 1982

TUESDAY, OCTOBER 22, 1985

HOUSE OF REPRESENTATIVES, SUBCOMMITTEE ON SBA AND SBIC AUTHORITY, MINORITY ENTERPRISE AND GENERAL SMALL BUSINESS PROBLEMS, COMMITTEE ON SMALL BUSINESS,

Washington, DC.

Tne subcommittee met, pursuant to notice, at 9 a.m., in room 2359-A, Rayburn House Office Building, Hon. Parren J. Mitchell (chairman of the subcommittee) presiding.

OPENING STATEMENT OF CHAIRMAN MITCHELL

Mr. MITCHELL. Good morning.

I apologize for the delay, and I thank the substitute reporter.

Today, we are conducting the fourth in a series of oversight hearings on the Disadvantaged Business Enterprise Program of the Federal Highway Administration.

To date, the Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems has investigated 16 DBE programs and received testimony regarding the implementation of section 105(f) of the Surface Transportation Assistance Act of 1982 from 10 States and the District of Columbia.

This investigation is ongoing and has already spanned a 19-month period.

The purpose of each oversight hearing is to collect information and statistical data from each State and the U.S. Department of Transportation (DOT) that will reflect and help us to gauge the impact the implementation of section 105(f) is having on the disadvantaged business enterprise (DBE) sector of our country.

The subcommittee's investigations have disclosed problem areas that restrict DBE participation in highway construction and urban mass transit projects. However, the record should clearly show that these problem areas existed long before the implementation of section 105(f). This is why I put my amendment on the Surface Transportation Assistance Act. My amendment was an attempt to help eliminate these problems and to remove the barriers that impede the emergence and growth of disadvantaged business enterprises (DBE's). Success has been gradual but steady, and certainly more time is needed to achieve representative involvement of minorities in publicly funded projects.

Based on this subcommittee's findings, I can say that criticisms aimed at this 10-percent provision by the Associated General Contractors of America and others within the administration are totally unwarranted. It has also become quite apparent that the criticisms of Mr. Barnhart, Administrator, FHWA, of the program are without substance, in light of the fact that they were made before the agency hired a consultant to conduct an impact study of the implementation of section 105(f) and in light of the fact that a major part of this program was in place as early as 1980.

He announced that he would hire an agency as a consultant to study the impact of the implementation of section 105(f). Even before the consultant was hired, he was making rash and brash statements that in my mind are totally unwarranted.

It is quite clear to me that selfish interests and racist orientations dictate a need on the part of AGC and certain individuals within the administration to perpetuate monopolized activity in these areas and to continue to deny minority entrepreneurs equal opportunity to compete in the marketplace.

I have grown weary of the statement that this is a colorblind society in which we live. If you look at the participation of minorities in all federally funded projects, particularly in these two areas, before the enactment of the set-aside programs, they were miniscule. I think we recall the data for the State of Mississippi where minority participation was less than 1 percent in these two areas, before 105(f) was implemented. Now that it is in place, I think Mississippi has achieved 12 percent or better minority participation. That would not have happened had there not been the law. But these critics would have us believe somehow or the other that programs to assist the disadvantaged result in the weakening or the demise or the downfall of white business, that is simply not true.

If you follow that kind of argument, these critics, including Mr. Barnhart, the administrator, would have us believe that either one group or the other can participate in these activities—one or the other—that is simply not true. The fact that this 10-percent share of participation is apportioned out among all eligible minorities participating in the program means that the percentage level for each group falls somewhere between 1 or 2 percent, not 10 percent.

If you are talking about this being apportioned out among Hispanics, blacks, American Indians, and others, it is a small percentage that goes to each of these ethnic groups.

In summary, based upon the findings of this subcommittee's investigations, it is apparent that section 105(f) has served to increase the participation of disadvantaged business enterprises in the marketplace. When there is a sincere, genuine commitment, when there are commitments from the Federal Highway and Urban Mass Transportation Administration of the Department of Transportation, State departments of transportation and others, when there is that kind of commitment, it works, despite those cynically cruel people who constantly launch criticisms against the program.

I just cannot restrain myself from saying that much of this, in my opinion, is racist orientation.

It is my recommendation that this program be reauthorized in order to allow DBE's an opportunity to grow and expand and participate in a meaningful way in federally funded programs.

Congressman Charles Hayes is with us this morning. I will ask him if he has a statement to make before we conclude the rest of my statement.

Mr. HAYES. Thank you, Mr. Chairman.

In the interest of time, I will forego my opening remarks. I learned sometime ago that once time escapes, you cannot recover it. I prefer to go to the testimony of these witnesses.

Mr. MITCHELL. Thank you very much.

I expect other members will join us from time to time.

We invited as witnesses State transportation officials from Idaho, Wisconsin, North Carolina, Pennsylvania, and Indiana. We will also receive testimony from Indiana State senator Carolyn Mosby and State representative Gordon Linton from Pennsylvania. Due to a misinterpretation of the letter of invitation, the Indiana Department of Highways will not be with us today.

On behalf of the subcommittee, I want to thank the witnesses for taking time out of their busy schedules to be with us today. I am sure your testimony will provide us with the kind of information needed to determine the impact of section 105(f) of the Surface Transportation Assistance Act of 1982 on the DBE community to date.

I must say from the outset that I am very, very concerned over some of the alleged problem areas that have been sent in by the States. Some allege that these disadvantaged businesses must get more technical assistance and learn how to perform well. Again, that is part of the stereotypical thing that exists, unfortunately, in this country. We have singularly well-qualified and well-run businesses that could be utilized in the program. They do not need technical assistance. They are good. But to use the same kind of criticism all the time is, in my opinion, a part of the effort to smear and discredit the program and prevent it from working.

I would like to now hear from Mr. Donald Morse, from the Idaho Department of Highways, who is a contract administration supervisor.

Mr. Morse, thank you for being here this morning.

Mr. MORSE. Thank you, Mr. Chairman. My wife accompanied me on the trip here.

Mr. MITCHELL. Welcome to Washington.

We have a copy of your testimony. If you care to, instead of reading it all, you can try to summarize it and just make the most salient points. The entire testimony will be submitted for the printed record of the hearing.

TESTIMONY OF DONALD H. MORSE, P.E., CONTRACT ADMINISTRATION SUPERVISOR, IDAHO TRANSPORTATION DEPARTMENT

Mr. MORSE. Thank you, Mr. Chairman and members of the subcommittee. I am presenting testimony on behalf of Governor Evans and the Idaho Transportation Department. As requested, I will provide an overview of Idaho's implementation of section 105(f) of the Surface Transportation Assistance Act of 1982.

Idaho's certification authority rests with the transportation department and is assigned to the contract administration section. It

is the only certification program in the State, and other agencies rely upon it for their needs as well.

The certification committee consists of three members appointed by the State highway administrator. It meets once a month or more frequently, as needed.

Onsite reviews are conducted regarding all Idaho firms applying, as well as those within commuting distance in surrounding States. Documents are reviewed by all committee members and a determination is made concerning approval, denial, or withheld judgment.

If approved, a letter so stating is sent to the applicant. If denied, the applicant is also notified, told the basis upon which a decision was reached, and the appellate procedure available.

All contracts let in the State of Idaho involving FHWA participating funds contain a set of civil rights special provisions. Part of these special provisions describe the program, set participating goals of 10-percent DBE and 1-percent WBE and delineate the good-faith effort requirements should the goals not be met. The successful bidder must submit an appropriate WBE and DBE commitment and summary of good-faith efforts. This document must be executed, returned, and approved before the contract is awarded.

Award may be made without penalty to a prime contractor not meeting the goals if he satisfies the contract administration superviser that he has made a satisfactory good-faith effort.

Schedules A and B, Idaho's questionnaire, and the onsite review indicate if a possible front situation exists. If such is suspected, particular attention is given to the minority's role in the company's day-to-day business, his investment of resources in the firm, and his receipts from the firm's operations.

Though no formal program of reciprocity exists between the States, we confer regularly with our counterparts in other States concerning their findings with respect to a particular firm. The Idaho Transportation Department has contracted for supportive services with a firm which has established offices in two locations in the State. The firm is charged with providing assistance to DBE/WBE businesses in the areas of financing, bonding, licensing, business planning, marketing, liaison with prime contractors, estimating, bidding, scheduling, and recordkeeping.

Idaho does not prequalify contractors. Licensing, by statute, is performed by the department of public works. Assistance in this area is given by the supportive services staff. The transportation department includes DBE firms on its mailing lists for project announcements and provides them with plan holder lists. We are presently developing through our operations management system a data processing program for collecting and reporting, not because of the volume of the work but to have more immediate access to our standing at any given time during the fiscal year and to facilitate responses to Federal and other inquiries in whatever form is requested.

Idaho has a total of approximately 160 firms in its directory, of which 40 are WBE firms. Over 50 percent of our DBE firms are from out of State; 7 percent are beyond our surrounding States. These statistics are not surprising for a State with less than a 6-percent minority population.

The major problem area as seen by us and our supportive services contractor stems from the small physical size of most DBE firms and their lack of assets which inhibits their ability to expand. To the best of our knowledge, only four DBE firms have developed to the extent that they have successfully bid as prime contractors on Idaho highway projects. In fiscal year 1984, Idaho achieved a 14.5-percent minority participation ratio in the program and 11.9 percent in fiscal year 1985.

Mr. MITCHELL. I generally do not interrupt a witness, but I read your testimony. It seems to me that this is an instance where, despite the very small minority population, because of a commitment and will to make it work, you have achieved and exceeded the goals.

Mr. MORSE. Yes.

Mr. MITCHELL. I certainly want to commend you. It is conforming with the spirit and letter of the law in walking that second mile.

As I read your testimony, I was totally impressed by that. I just had to tell you early on, you and your Governor and all involved, that is the kind of thing that convinces me the program is completely and totally workable if there is a will to make it work.

I am sorry. I interrupted you only to praise you. I promise not to do it again. I may praise you again, but I will not interrupt you until you finish your statement.

Mr. MORSE. Thank you, Mr. Chairman.

I might also mention that just recently, we were asked to present our prepared goals for fiscal year 1986. We again stated we would attempt to reach the 10-percent DBE goal again in the next fiscal year.

In summary, Mr. Chairman, the personnel of the Idaho Transportation Department are cognizant of the statute. We are confident that we are not only conforming to the letter of the law but to the spirit of the act.

Mr. Chairman, in concluding my prepared statement, I am pleased to have had the opportunity to appear before you. I am prepared to respond to your questions.

[Mr. Morse's prepared statement, with attachments, follows:]

PREPARED STATEMENT OF DONALD H. MORSE, P.E., CONTRACT ADIMINISTRATION SUPERVISOR, IDAHO TRANSPORTATION DEPARTMENT

INTRODUCTION

Thank you Mr. Chairman and members of the Committee. I am presenting testimony on behalf of Governor Evans and the Idaho Transportation Department. As requested, I will provide an overview of Idaho's implementation of Section 105(f) of the Surface Transportation Assistance Act (STAA) of 1985. References include the Code of Federal Regulations, Title 49, Part 23; the Idaho Transportation Department (ITD) Civil Rights Manual; and the ITD Contract Administration Manual.

1. Idaho's Certification Process

Idaho's certification authority rests with the Transportation Department and is assigned to the Contract Administration section. The certification committee consists of three members appointed by the State Highway Administrator, which meets once per month, or more frequently as needed.

The process is initiated by a request from a potential applicant concerning certification. The potential applicant is sent a packet containing Schedule A, and Schedule B if a joint venture is involved; and an ITD questionnaire

(DH-2394). Schedules A and B are taken directly from the Code of Federal Regulations. Copies of these and other forms have previously been supplied to your staff, and are included as an appendix to this statement.

The returned application is screened by the supportive services contractor for completeness. If incomplete the applicant is contacted to avoid delay in processing.

On-site reviews are conducted regarding all Idaho firms applying as well as those within commuting distance in surrounding states. This may be done either before, or after, initial consideration by the committee. Scheduled reviews, as opposed to drop-in visits, are generally accomplished within a month after receipt of an application, and are usually conducted by a committee member and a supportive service staff member. Because of travel distances within our state, an ITD district representative and a supportive services staff member may be asked to conduct the review. An ITD form DH-2420 is completed during the review.

These documents are reviewed by all committee members and a determination is made concerning certification and recorded on ITD Form DH-2421. The committee has three options: approval, denial or withheld judgment. If approved, a letter so stating is sent to the applicant whose name is added to the directory. If denied, the applicant is also

notified, told on what basis the decision was reached, and the appellate procedure available. The applicant may appeal the decision to the Contract Administration Supervisor within 60 working days after the date of denial. The Contract Administration Supervisor will schedule a hearing allowing all parties to present evidence and voice their opinion. The Supervisor may hear the appeal himself, or employ an outside hearing officer for this purpose, who makes a report and recommendation to the Supervisor for decision. If the original denial is upheld, the applicant may further appeal to the Secretary of the Department of Transportation as indicated in Title 49-23.55. Information on both appeals is provided to the applicant at the time of original denial and he, or she, is not obligated to appeal to the Contract Administration Supervisor prior to appealing to the Department of Transportation. Withheld findings are usually resolved by the next committee meeting, pending additional information from the applicant.

Written procedures are also contained in the ITD Civil Rights Manual for decertification and third party challenges. Detailed discussion of these areas has not been made a part of this statement as we have not, to date, had to employ either of these sections of our manual.

2. Idaho's Procedure to Insure Compliance With 105(f) Regarding DBE Participation

All contracts let in the State of Idaho involving FHWA participating funds contain a set of Civil Rights Special Provisions. Part IV of this special provision is titled, "Disadvantaged Businesses and Women Business Enterprise Requirements (Executive Orders 11625, 12138, 49 CFR 23, and Section 105(f) of the Surface Transportation Assistance Act of 1982): This section describes the program; sets participating goals of ten percent DBE and one percent WBE; and delineates the good faith effort requirements should the goals not be met. Prior to advertisement for bids, each contract is examined for applicability of these goals. The nature of the work, size of the contract, location of the project, availability of DBE firms, etc. are considered. If it is believed that the goals are not realistic for that individual contract, an adjustment is made in the contract special provisions.

The successful bidder is sent ITD form DH-2396, "Proposed DB/WBE Commitments," and "Summary of Good Faith Efforts," with his notice of intent to award. This document must be completed, returned and approved before the contract is awarded. Copies of the approved form are sent to the project's Resident Engineer for monitoring purposes, and to the supportive services contractor for their use in assisting DBE firms. Award may be made, without penalty, to a prime contractor not meeting the goals if he satisfies the Contract Administration Supervisor that he has made a satisfactory good faith effort.

Requests to subcontract are monitored by both the Resident Engineer and Associates of the Contract Administration section to assure the work is awarded to, and being done by, those DBE firms indicated on the commitment form.

3. Idaho's mechanisms to insure that "Front Companies" do not participate in the program

Schedules A and B and Idaho's Questionnaire are designed to elicit this type of information. The on-site review further indicates if a possible "Front" situation exists. If such is suspected, particular attention is given to the minority's role in the company on a day-to-day basis, his investment of resources in the firm, and his receipts from the firm's operations. If certified, either directly, or through appeal, and any doubt still exists, the minority's actions on the project are particularly scrutinized by project personnel.

It is worth mentioning at this point that, though no formal program of reciprocity exists between states, we confer regularly with our counterparts in other states concerning their findings with respect to a particular firm. This specifically comes into play with out-of-state applicants.

4. Idaho's Efforts to Alleviate Barriers which Restrict DBE Participation

The Idaho Transportation Department has contracted for supportive services with a firm which has established

offices in two locations in the state. This firm is charged with providing assistance to DBE/WBE businesses in the areas of financing, bonding, licensing, business planning, marketing, liaison with prime contractors, estimating, bidding, scheduling and record keeping. The supportive services contractor provides some of these services with its own staff, having specialists available to assist such as a bonding consultant, and a banker consultant. Retired ITD employees also serve as consultants in the areas of plan reading, material take-off, etc. Seven seminars on bonding alone have been given by this firm as well as classes on material take-off and bidding. The supportive services contractor also organized five meetings around the state for all highway contractors to explain the civil rights special provisions. Our Department participated in these meetings. All such services are provided free of charge to the DBE.

Idaho does not prequalify contractors. Licensing, by statute, is performed by the Department of Public Works. Assistance in this area is given by the supportive service staff.

The Transportation Department includes DBE firms on its mailing lists for project announcements and provides them with plan holder lists.

5. Idaho's Information Management System for Collecting Data ON DBE Participation

Initial data collection begins with receipt of the commitment and good faith effort report. Following award, this report is used during the review process for each request to subcontract. From it, data is taken for monthly and quarterly reports to FHWA concerning federal aid and contractor commitments. Data is taken from the request to subcontract for similar reporting of awards.

During construction the Resident Engineer is directed by the Contract Administration manual to monitor DBE: work, default, payrolls, undocumented participation, suppliers, manufacturers, etc. Violations are reported to the Contract Administration Supervisor. The Resident Engineer may use his discretion on monitoring methods with no routine reports required.

We are presently developing, through our Operations Management System, a data processing program of collecting and reporting, not because of the volume of work, but to have more immediate access to our standing at any time during the fiscal year, and to facilitate response to federal and other inquiries in whatever form is requested at the time.

Idaho only has a total of approximately 160 firms in its directory of which 40 are WBE firms. This includes highway construction firms, building construction firms, suppliers, service organizations and consultants. Fifty-one percent of the DBE firms are from out-of-state, and seven percent are

beyond our surrounding states. These statistics are not surprising for a state with a six percent minority population.

6. Problem Areas that Idaho has Identified that Impact DBE Participation and Performance

A major problem area as seen by us and our supportive services contractor stems from the small physical size of most DBE firms, and their lack of assets, which inhibits their ability to expand. To the best of our knowledge, only four DBE firms have developed to the extent that they have successfully bid as prime contractors on Idaho highway projects. Two of these successfully bid as prime contractors for the first time this past year on small projects, e.g., rest area refurbishing and bridge repair. The lack of assets makes it difficult to obtain financial backing. This situation is not restricted to DBE firms, but because of their general size overall, it shows in the program.

7. Total Dollar Amounts of Funds Appropriated to Idaho Under STAA, 1982, for Fiscal Years 1984 and 1985

And

8. The Amount of this Total Idaho has Used to Provide Contracting Opportunities for DBE Firms

Idaho was authorized and apportioned $82,273,000 in Fiscal Year 1984 of which $55,995,197 was let to contract. Of this

amount, $8,147,153, or 14.5 percent, was contracted to DBE firms.

Idaho was authorized and apportioned $92,762,000 in Fiscal Year 1985 of which $58,984,230 was let to contract. Of this amount, $7,002,215, or 11.9 percent, was contracted to DBE firms.

In summary, Mr. Chairman, the personnel of the Idaho Transportation Department are cognizant of the provisions of STAA 1982, Section 105(f). We are confident that we are not only conforming to the letter of the law, but to the spirit of the Act. We recently completed a three-day review of our civil rights program with the Region 10 Director of Civil Rights, FHWA. We have not yet received his written report; however, he indicated no major deficiencies in our program. Any recommendations he may give us will be considered for enhancement of the process.

Mr. Chairman, this concludes my prepared statement. I am pleased to have had the opportunity to appear before this distinguished committee, and I am now prepared to respond to your questions.

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Congress of the United States
House of Representatives
COMMITTEE ON SMALL BUSINESS
Washington, DC 20515

September 16, 1985

RECEIVED
SEP 24 1985
I. T. D.
CONTRACT ADMINISTRATION

The Honorable John Evans
Governor
State of Idaho
State Capitol
Boise, Idaho 83720

Dear Governor Evans:

The Subcommittee on SBA and SBIC Authority, Minority Enterprise and General Small Business Problems will conduct a hearing to investigate State implementation of section 105(f) of the Surface Transportation Assistance Act (STAA) of 1982. This section mandates a minimum 10 percent level of participation for small business concerns owned and controlled by socially and economically disadvantaged individuals.

The hearing is scheduled for Tuesday, October 22, 1985, at 9:00 a.m., in room 2359-A of the Rayburn House Office Building in Washington, D.C.

The hearing will focus, in part, on Idaho's certification process; the participation and utilization of Disadvantaged Business Enterprises (DBEs) as prime and subcontractors; contract compliance as it relates to section 105(f); and the efforts being made to eliminate any barriers that restrict minority participation in this program.

You are requested to appear before the Subcommittee on Tuesday, October 22, 1985 to provide testimony regarding Idaho's implementation of section 105(f) of the above mentioned Act.

In particular the Subcommittee would like to hear your testimony regarding the following:

1. Idaho's certification process.
2. The procedures used by Idaho to insure compliance with section 105(f) regarding DBE participation.
3. The enforcement mechanisms used by Idaho to insure that "Front Companies" do not participate in the program.
4. The kind of efforts being made by Idaho to alleviate any barriers that restrict DBE participation in this program.

5. The information management system used by Idaho for collecting and compiling data on DBE participation under the Act.

6. Other problem areas you may have identified that impact on DBE participation and performance in Idaho.

7. The total dollar amount of the funds appropriated by DOT to Idaho under the STAA of 1982 for fiscal years 1984 and 1985.

8. The amount of that total that Idaho has used to provide contracting opportunities for DBEs for fiscal years 1984 and 1985.

Please provide the Subcommittee with seventy-five (75) copies of your testimony. This testimony should be typed, double spaced and delivered to room 2361 Rayburn House Office Building, Washington, D.C. 20515, no later than 3:00 p.m., Tuesday, October 15, 1985.

If you have any questions regarding this matter, please contact Mrs. Gloria Bryant at (202) 225-4020.

Sincerely,

Parren J. Mitchell

Parren J. Mitchell
Chairman

PJM:gbb

ITD-646a 5/81

State of Idaho Transportation Department
PO Box 7219, Boise, Idaho 83706

SCHEDULE A -- INFORMATION FOR DETERMINING MINORITY BUSINESS ENTERPRISE ELIGIBILITY

1. Name of firm: _____
2. Address of firm: _____
3. Phone number of firm: _____
4. Indicate whether firm is sole proprietorship, partnership, joint venture, corporation or other business entity (please specify): _____
5. Nature of firm's business: _____
6. Years firm has been in business: _____
7. Ownership of firm: Identify those who own 5 percent or more of the firm's ownership. Columns e and f need be filled out only if the firm is less than 100 percent owned. (Attach additional sheets if necessary.)

a	b	c	d	e	f
Name	Race	Sex	Years of Ownership	Ownership Percentage	Voting Percentage

With firms less than 100 percent minority-owned, list the contributions of money, equipment, real estate, or expertise of each of the owners.

8. Control of firm (a) identify by name, race, sex, and title in the firm those individuals (including owners and non-owners) who are responsible for day-to-day management and policy decision-making, including but not limited to, those with prime responsibility for: (attach additional sheets if necessary)

Responsibility	Name	Race	Sex	Title
a. Financial decisions:				
b. Management decisions, such as				
(1) Estimating:				
(2) Marketing and sales:				
(3) Hiring and firing of management personnel:				
(4) Purchases of major items or supplies:				
c. Supervision of field operations:				

9. For each of those listed in question 8, provide a brief summary of the person's experience and number of years with the firm, indicating the person's qualifications for the responsibilities given him or her.

0. Describe or attach a copy of any stock options or other ownership options that are outstanding, and any agreements between owners or between owners and third parties which restrict ownership or control of minority owners.

Reverse side ITD-646a 5/81

11. Identify any owner (see item 7) or management official (see item 8) of the named firm who is or has been an employee of another firm that has an ownership interest in or a present business relationship with the named firm. Present business relationships include shared space, equipment, financing, or employees as well as both firms having some of the same owners. (Attach additional sheet if necessary.)

12. What are the gross receipts of the firm for each of the last two years?
Year ending: _____ $ _____
Year ending: _____ $ _____

13. Name of bonding company, if any: _____

14. Are you authorized to do business in the state as well as locally, including all necessary business licenses?

15. Indicate if this firm or other firms with any of the same officers have previously received or been denied certification or participation as an MBE and describe the circumstances. Indicate the name of the certifying authority and the date of such certification or denial. (Attach additional sheet if necessary.)

AFFIDAVIT

"The undersigned swears that the foregoing statements are true and correct and include all material information necessary to identify and explain the operations of (name of firm) as well as the ownership thereof. Further, the undersigned agrees to provide through the prime contractor or, if no prime, directly to the grantee current, complete and accurate information regarding actual work performed on the project, the payment therefor and any proposed changes, if any, of the foregoing arrangements and to permit the audit and examination of books, records and files of the named firm. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

NOTE: If, after filing this Schedule A and before the work of this firm is completed on the contract covered by this regulation, there is any significant change in the information submitted, you must inform the grantee of the change through the prime contractor or, if no prime contractor, inform the grantee directly.

Signature: _____
Name: _____
Title: _____
Date: _____

Corporate Seal (where appropriate)

Date: _____
State of: _____
County of: _____

On this ____ day of _____, 19__, before me appeared (name) _____, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (Name of firm) _____ to execute this affidavit and did so as his or her free act and deed.

(Seal)

Notary Public: _____
Commission expires: _____

ITD-646b 5/81

State of Idaho Transportation Department
PO Box 7219, Boise, Idaho 83706

SCHEDULE B -- INFORMATION FOR DETERMINING JOINT VENTURE ELIGIBILITY

(This form need not be filled in if all joint venture firms are minority owned.

1. Name of joint venture: _____

2. Address of joint venture: _____

3. Phone number of joint venture: _____

4. Identify the firms which comprise the joint venture. (The MBE partner must complete Schedule A.): _____

   a. Describe the role of the MBE firm in the joint venture:

   b. Describe very briefly the experience and business qualifications of each non-MBE joint venturer: _____

5. Nature of the joint venture's business: _____

6. Provide a copy of the joint venture agreement.

7. What is the claimed percentage of MBE ownership? _____

8. Ownership of joint venture: (This need not be filled in if described in the joint venture agreement, provided by question 6.):

   a. Profit and loss sharing. _____

   b. Capital contributions, including equipment. _____

   c. Other applicable ownership interests. _____

9. Control of and participation in this contract. Identify by name, race, sex, and "firm" those individuals (and their titles) who are responsible for day-to-day management and policy decisionmaking, including, but not limited to, those with prime responsibility for: (attach additional sheets if necessary)

Responsibility	Name	Race	Sex	Firm
a. Financial decisions:				
b. Management decisions, such as:				
(1) Estimating:				
(2) Marketing and sales:				
(3) Hiring and firing of management personnel:				
(4) Purchasing of major items or supplies:				
c. Supervision of field operations:				

Reverse side ITD-6465 5/81

AFFIDAVIT

"The undersigned swear that the foregoing statements are correct and include all material information necessary to identify and explain the terms and operation of our joint venture and the intended participation by each joint venturer in the undertaking. Further, the undersigned covenant and agree to provide to the grantee current, complete and accurate information regarding actual joint venture work and the payment therefor and any proposed changes in any of the joint venture arrangements and to permit the audit and examination of the books, records and files of the joint venture, or those of each joint venturer relevant to the joint venture, by authorized representatives of the grantee or the Federal funding agency. Any material misrepresentation will be grounds for terminating any contract which may be awarded and for initiating action under Federal or State laws concerning false statements."

NOTE: If, after filing this Schedule B and before the completion of the joint venture's work on the contract covered by this regulation, there is any significant change in the information submitted, the joint venture must inform the grantee, either directly or through the prime contractor if the joint venture is a subcontractor.

Name of Firm: _____
Signature: _____
Name: _____
Title: _____
Date: _____

Name of Firm: _____
Signature: _____
Name: _____
Title: _____
Date: _____

Date: _____
State of: _____
County of: _____

On this _____ day of _____, 19__, before me appeared (Name) _____, to me personally know, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (Name of firm) to execute the affidavit and did so as his or her free act and deed.

Notary Public: _____
Commission expires: _____

(Seal)

Date: _____
State of: _____
County of: _____

On this _____ day of _____, 19__, before me appeared (Name) _____, to me personally known, who, being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (Name of firm) to execute the affidavit and did so as his or her free act and deed.

Notary Public: _____
Commission expires: _____

(Seal)

DH-2394 8/85

IDAHO TRANSPORTATION DEPARTMENT
MINORITY BUSINESS ENTERPRISE/WOMEN OWNED BUSINESS ENTERPRISE

QUESTIONNAIRE

The Department's Disadvantaged Business and Women Owned Business Enterprises program covers two specific groups. These are: (1) Disadvantaged Businesses Enterprises (DBE); and (2) Women Owned Business Enterprises (WBE).

1. "DBE/WBE" is defined as "Disadvantaged Business" that means a small Business (Section 3 Small Business Act) concern: (1) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly owned business, at least 51 percent of the stock is owned by one or more socially and economically disadvantaged individuals; and (2) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it. The same rules of ownership and control apply to Women Owned Business Enterprises (WBE).

2. "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are members of the groups listed below and any other minorities or individuals found to be disadvantage by the Small Business Administration listed in section 8(a) of the Small Business Act may also be determined on a case-by-case basis for individuals who are not members of one of the following groups:

   a. "Black Americans," which include persons having origin in any of the Black racial groups of Africa;

   b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

   c. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the US Trust Territories of the Pacific, and the rthern Marianas;

   d. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

   e. "American Indian and Alaskan Native", a person having origins in any of the original peoples of North America;

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f. Members of other groups, or other individuals, found to be economically and socially disadvantaged by the Small Business Administration under section 8(a) of the Small Business Act, as amended (15 U.S.C. 637 (a)).

3. "Female," is defined as a woman of any race, including caucasion.

4. "Joint Venture," is defined as an association of two or more persons to carry out a single business enterprise for profit, for which purposes, they combine their property; capital; efforts; skills; and knowledge.

REQUEST FOR CERTIFICATION

1. FIRM NAME _____

2. BUSINESS ADDRESS _____

3. CITY _____ STATE _____ ZIP _____

4. PHONE NUMBER _____

5. PRINCIPAL CONTACT IN YOUR FIRM _____

6. TYPE OF BUSINESS (PLEASE CHECK ONE)

__ PROPRIETORSHIP (SINGLE OWNER) __ CORPORATION

__ PARTNERSHIP __ JOINT VENTURE (TWO OR MORE FIRMS)

7. DATE FIRM WAS ESTABLISHED _____

IS THIS FIRM A CONTINUATION OF A PRE-EXISTING FIRM? _____

8. LIST OF KEY PERSONNEL:

NAME	TITLE	YEARS OF EXPERIENCE	RACIAL MIX

9. CURRENT NUMBER OF EMPLOYEES ____ ____ PART-TIME _____ FULL-TIME

10. WHAT WERE THE GROSS RECEIPTS FOR THE FIRM DURING EACH OF THE PAST TWO YEARS?

_____

11. MAXIMUM BONDING PREVIOUSLY OBTAINED $_____

12. SIZE OF JOB PREFERRED $_____ TO $_____

DH-2394 8/85 (Contd)

13. LOCATION OF JOB PREFERRED _____

14. LIST OF COMPANIES YOUR FIRM HAS DONE BUSINESS WITH IN THE LAST THREE YEARS.

_____

_____

15. PLEASE CIRCLE THE PRIMARY BUSINESS CATEGORIES IN WHICH YOU PREFER TO BE LISTED:

	OWNERS YEARS OF EXPERIENCE
Accounting/Business Services and Secretarial Service	_____
Architects/Engineers/Surveyors/Consultants (Specify)	_____
Commercial Testing Laboratories	_____
Consultants	_____
General Contractors - Building Structures & Related	_____
General Contractors - Heavy/Highway/Industrial/Related	_____
Carpentry	_____
Cement/Concrete/Curb & Gutter/Masonry/Sidewalks	_____
Earthwork/Clearing & Grubbing/Excavation/Grading & Drainage/Drilling & Blasting/Demolition/Sewer & Water	_____
Erosion Control/Seeding/Landscaping/Rest Areas	_____
Guardrails/Metal Beams/Fencing	_____
Interior Finishing/Drywall/Lathing/Plastering & Related	_____
Electrical /Highway Illumination/Traffic Signals	_____
Mechanical/Plumbing/Heating & Related	_____
Painting/Traffic Markings/Structures/Std. Highway Signs	_____
Paving/Crushed Aggregate/Asphalt & Pavement	_____
Roofing/Insulation	_____
Employment Services	_____
Financial Institutions/Surety Companies	_____
Janitorial Services	_____

DH-2394 8/85 (Contd)

15. Continued

	OWNERS YEARS OF EXPERIENCE
Photography/Visual Aids/Supplies/Repairs	
Printing/Graphics	
Repair Services (Specify)	
Transportation/Trucking/Owner-Operators	
Distributors (Specify)	
Miscellaneous Sales (Specify)	
Miscellaneous Services (Specify)	
Other _____	
_____	

16. ATTACH A LIST OF ALL EQUIPMENT OWNED BY THE FIRM. SPECIFY: (1) EQUIPMENT TYPE; (2) EQUIPMENT NUMBER; (3) YEAR.

ATTACH A LIST OF ALL EQUIPMENT LEASED AND INDICATE FROM WHOM THE EQUIPMENT IS OBTAINED.

17. ETHNIC ORIGIN: IDENTIFY ALL LEGAL OWNERS BY RACE. USE THE FOLLOWING CODES:

(B) BLACK;
(H) HISPANIC;
(AA) ASIAN AMERICAN;
(AI) AMERICAN INDIAN; OR
(C) CAUCASION

a. Include copy of birth certificate.

b. Include proof of tribal enrollment, or proof of ancestry, if you are an American or Alaskan Indian.

c. Include proof of origin if you are Hispanic or Asian American.

d. Include proof of permanent residence status, if applicable.

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18. LEGAL OWNERS: ALL OWNERS MUST SIGN BELOW

(ALL OWNERS MUST SIGN BELOW)	% OF OWNERSHIP	PERMANENT RESIDENCE
Signature		
(Type or Print Name)	RACE: B ___ H ___ AA ___ AI ___ C ___	
	GENDER: M ___ F ___	
BIRTHPLACE City	County	State
MARITAL STATUS:	DATE OF MARRIAGE:	
NAME OF SPOUSE:		
RACE OF SPOUSE: B ___ H ___ AA ___ AI ___ C ___		

(ALL OWNERS MUST SIGN BELOW)	% OF OWNERSHIP	PERMANENT RESIDENCE
Signature		
(Type or Print Name)	RACE: B ___ H ___ AA ___ AI ___ C ___	
	GENDER: M ___ F ___	
BIRTHPLACE City	County	State
MARITAL STATUS:	DATE OF MARRIAGE:	
NAME OF SPOUSE:		
RACE OF SPOUSE: B ___ H ___ AA ___ AI ___ C ___		

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18. Continued

(ALL OWNERS MUST SIGN BELOW)	% OF OWNERSHIP	PERMANENT RESIDENCE
Signature		
(Type or Print Name)	RACE: B ___ H ___ AA ___ AI ___ C ___	
	GENDER: M ___ F ___	
BIRTHPLACE ___ City	___ County	___ State
MARITAL STATUS: ___	DATE OF MARRIAGE: ___	
NAME OF SPOUSE: ___		
RACE OF SPOUSE: B ___ H ___ AA ___ AI ___ C ___		

19. IF MARRIED, PLEASE SUBMIT A COPY OF ANY SEPARATE PROPERTY AGREEMENT OR COMMUNITY PROPERTY AGREEMENTS, SHOWING THAT AT LEAST 51 PERCENT OF THE FIRM IS OWNED BY THE MINORITY OR WOMEN AS HIS/HER SEPARATE PROPERTY.

20. IF THE FIRM IS A PARTNERSHIP, ENCLOSE A COPY OF THE PARTNERSHIP AGREEMENT.

21. IF THE FIRM IS A CORPORATION, ENCLOSE A COPY OF THE ARTICLES OF INCORPORATION, BY-LAWS AND MINUTES OF MOST RECENT BOARD OF DIRECTORS AND STOCKHOLDERS MEETING. IN ADDITION, ATTACH COPIES OF STOCK CERTIFICATES, STOCK OPTIONS. OWNERSHIP OPTIONS AND/OR AGREEMENTS BETWEEN OWNER AND THIRD PARTIES AFFECTING THE OWNERSHIP, AND FINANCIAL AGREEMENTS.

22. PROVIDE THE FOLLOWING:

a. State excise tax regulation number
b. Employer identification number (federal)
c. Industrial insurance number
d. Contractor license number and expiration date
e. Unemployment insurance tax number
f. If your corporation is located outside the state of Idaho, are you licensed to do business in the state of Idaho?

23. ATTACH A RESUME FOR: (1) EACH OWNER; (2) HIS/HER SPOUSE; AND (3) THE KEY PERSONNEL. FOR EACH RESUME LIST, FORMER AND PRESENT EMPLOYERS, DATES AND PLACES OF EMPLOYMENT, AND DUTIES PERFORMED. ALSO, LIST AFFILIATIONS WITH OTHER FIRMS.

24. IDENTIFY ANY OWNER OR MANAGEMENT OFFICIAL OF THE FIRM WHO IS, OR HAS BEEN, AN EMPLOYEE OF ANOTHER FIRM THAT HAS AN OWNERSHIP INTEREST IN OR A PRESENT BUSINESS RELATIONSHIP WITH YOUR FIRM. PRESENT BUSINESS RELATIONSHIPS INCLUDE SHARED SPACE, EQUIPMENT, FINANCING, OR EMPLOYEES AS WELL AS BOTH FIRMS HAVING SOME OF THE SAME OWNERS.

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24. Continued

PROVIDE THE EXACT NATURE OF THE RELATIONSHIPS INCLUDING:

a. The address or location of shared office space and the firm or individual with whom the space is shared.

b. A copy of any written agreement for shared or rented equipment with a firm (except commercial rental enterprises) or an explanation of any verbal agreement which may exist.

c. Copies of written financial agreements with other firms (excluding banks and recognized financial institutions) or an explanation of verbal agreements including the amounts or percentages agreed upon.

d. The percentage of time individuals associated with other firms devote to each firm.

25. IS THE FIRM AN SBA 8(a) APPROVED CONTRACTOR? IF SO, SUBMIT PROOF.

26. HAS THIS FIRM (OR OTHER FIRMS WITH ANY OF THE SAME OFFICERS) BEEN DECERTIFIED OR DENIED CERTIFICATION IN ANY STATE?

27. IN WHICH STATES IS THE FIRM NOW CERTIFIED AS A DBE/WBE. ENCLOSE COPIES OF CERTIFICATIONS FROM OTHER STATES.

28. IF FIRM IS APPLYING FOR CERTIFICATION AS A "DISADVANTAGED BUSINESS" (DBE) AND OWNERS ARE NOT MEMBERS OF THE GROUPS IDENTIFIED ON PAGE 1, PARAGRAPH 2, AS PRESUMPTIVELY SOCIALLY AND ECONOMICALLY DISADVANTAGED, SUBMIT RELEVANT EVIDENCE IN SUPPORT OF THE INDIVIDUAL'S CLAIM AND SOCIAL AND ECONOMIC DISADVANTAGE (RE: APPENDIX C, SUBPART D, 49 CFR 23).

29. ACCESS TO RECORDS:

UPON REQUEST FROM THE IDAHO TRANSPORTATION DEPARTMENT, THE UNDERSIGNED SUBMIT AND MAKE AVAILABLE TO THE DEPARTMENT EXCERPTS AND TRANSCRIPTIONS OR COPIES OF ALL RECORDS, PAPERS, AND OTHER DOCUMENTS DEEMED NECESSARY FOR INSPECTION, AUDITING, AND EXAMINING. IT IS UNDERSTOOD THAT FAILURE TO PROVIDE SUCH INFORMATION MAY BE GROUNDS FOR DENIAL OF CERTIFICATION.

DH-2394 8/85 (Contd)

I, AN OWNER OF _____ (Name of Firm), DO HEREBY SWEAR AND AFFIRM THAT ALL FACTS AND REPRESENTATIONS MADE IN THIS DOCUME ARE TRUE AND ACCURATE TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF.

SIGNATURE: _____

NAME: _____

TITLE: _____

DATE: _____

Date: _____

State of: _____

County of: _____

On this _____ day of _____, 19_____, before me appeared (name) _____, me personally known, who being duly sworn, did execute the foregoing affidavit, and did state that he or she was properly authorized by (Name of Firm) _____ to execute this affidavit and did so as his or her free act and deed.

(SEAL)

Notary Public: _____

Commission Expires: _____

DH-2420 6/85

IDAHO TRANSPORTATION DEPARTMENT
DBE/WBE ON-SITE CERTIFICATION REVIEW

A. OWNERSHIP

1. Sole Proprietorship ____ Partnership ____ Corporation ____
2. Partners ____ % Ownership ____
3. Corporate Officers Name % Ownership

a. President
b. Vice President
c. Secretary
d. Treasurer
e. Directors

4. Stock (Shares)

Authorized ____ Distributed ____ Outstanding ____

Stock Options

5. Duties of Officers (Actual)

a. President

b. Vice President

c. Secretary

d. Treasurer

e. Directors

f. Other

B. Financial Documents (Signed By)

a. Notes/Loans Payable
b. Notes/Loans Receivable
c. Bonding
d. Bank Accounts
e. Indemnifications
f. Public Works License

101-2620 6/85 (Reverse Side)

7. Purchase Orders, Agreements

8. Contracts: Prepares Signs

a. Bids
b. Estimates
c. Contracts

9. Equipment

a. Ownership
b. Leases

10. Payroll

a. Prepares Signs

b. Pertinent Payroll Data

11. Employment Data

a. Hiring
b. Supervising
c. Terminations

12. Tax Documents

a. Payroll Taxes
b. Withholding Taxes
c. Corporate Taxes

13. Other Pertinent Information

a. Field Operations
b. Shared Facilities
c. Shared Equipment
d. Shared Staff/Personnel

COMMENT

Review Conducted Date

BY

DH-2421 6/85 IDAHO TRANSPORTATION DEPARTMENT

DBE/WBE CERTIFICATION CHECKLIST

( ) NEW
( ) RECERTIFICATION

( ) DBE ( ) WBE

( ) APPROVED ( ) DENIED ( ) WITHHELD

NAME: _____

ADDRESS: _____

PHONE NO.: _____

PRINCIPLE CONTACT: _____

I. _____ SCHEDULE A/B COMPLETE, SIGNED AND NOTORIZED.

II. _____ QUESTIONNAIRE

A. Ownership

1. _____ Sole Proprietorship
_____ Partnership
_____ Corporation

a. _____ Stock Certificates
b. _____ Articles of Incorporation
c. _____ Bylaws
d. _____ Minutes of Meetings
e. _____ Sole and Separate Property

2. _____ Proof of Ethnic Identity (DBE)

On-site Review Conducted _____

On-site Review Scheduled _____

REMARKS: _____

_____

_____

_____ _____
Signature Date

_____ _____
Signature Date

_____ _____
Signature Date

(See reverse side of sheet for notes.)

STATE OF IDAHO

JOHN V EVANS
GOVERNOR
IDAHO TRANSPORTATION BOARD
CARL C MOORE — CHAIRMAN
LLOYD F BARRON — VICE CHAIRMAN
JOHN M OHMAN — MEMBER
E DEAN TISDALE
DIRECTOR

TRANSPORTATION DEPARTMENT

PO BOX 7129 BOISE, IDAHO 83707

April 15, 1985

Jim Armenta
Armenta Construction
Rt 6, Box 125
Caldwell, ID 83605

We are pleased to advise you that your firm has been certified by the Idaho Transportation Department as a Disadvantaged Business Enterprise.

This certification expires on December 31, 1985.

Prior to the expiration date, you will be sent information regarding the annual update and renewal of your certification.

Anytime, during this year, that there is a change in ownership or control of your firm, you must notify us and submit a new application, if necessary.

If you have a change in telephone nurber, or mailing address, please let us know immediately, so that we may make the necessary correction in our Certified Disadvantaged Business Enterprise Directory.

Sincerely,

L. F. Browning

L. F. BROWNING, PE.
Contract Administration Supervisor

cc: M.B.A.C.
CR/AA Coord.

bcc: CAS
MBAC

[illegible]
CONTRACT ADMINISTRATION

August 21, 1985

Dear Mr.

The Idaho Transportation Department is denying your firm's request to be certified as a Disadvantaged Business Enterprise (DBE).

The documentation presented for consideration and the results of the on-site visit to indicate that you are not in day to day operational control of the firm and that you do not possess the power to direct or cause the direction of the management and policies of the business. Every indication points to the fact that non-minorities are in fact in charge of the day to day operational control and managerial decision making of the business. The on-site visit revealed that you are:

1. Learning the business.
2. There is no indication that you have any expertise in the company's line of business.
3. You are only working on a part-time basis.
4. You are still actively engaged in another entirely unrelated business.
5. There is no record of your contribution of capitol to acquire your shares in the company.

Based on these findings it has been determined that does not meet the requirement of the U.S. Department of Transportation Regulation 49CFR, Part 23.53(a)(2)(3)(6) which states in part:

"An eligible minority business enterprise under this part shall be an independent business. The ownership and control by minorities or women shall be real, substantial, and continuing..."

"The minority or women owners shall also possess the power to direct or cause the direction of the management and policies of the firm and to make day to day as well as major decisions on matters of management, policy and operations..."

CONTINUED

"The contributions of capitol or expertise by the minority
women owners to acquire their interest in the firm shall be
real and substantial..."

In the event you do not agree with this determination and wish
present clarifying documentation you may request, within 15 work
days, a meeting with the Department's certification committee.

You may also file an appeal in writing, signed and dated, within
180 days after denial of certification, with the Secretary, U.S.
Department of Transportation, 400 7th Street S.W., Washington,
20590.

Sincerely,

SIGNED BY

LAURENCE F. BROWNING, P.E.
Contract Admin. Supv.

LFB:LM:mw

CIVIL RIGHTS SPECIAL PROVISIONS

PART I Special Equal Employment Opportunity Responsibilities (23 USC 140; 23 CFR 230)

1. General

a. Equal employment opportunity requirements not to discriminate and to take affirmative action to assure equal employment opportunity as required by Executive Order 11246 and Executive Order 11375 are set forth in Required Contract Provisions (Form PR-1273) and these Special Provisions which are imposed pursuant to Section 140 of Title 23, U.S.C. The requirements set forth in these Special Provisions shall constitute the specific affirmative action requirements for project activities under this contract and supplement the equal employment opportunity requirements set forth in the Required Contract Provisions.

b. The contractor will work with the Idaho Transportation Department and the Federal Government in carrying out equal employment opportunity obligations and in their review of activities under the contract.

c. The contractor and all subcontractors holding subcontracts not including material suppliers, of $10,000 or more, will comply with the following minimum specific requirement activities of equal employment opportunity. (The equal employment opportunity requirements of Form PR-1273 are applicable to material suppliers as well as contractors and subcontractors.) The contractor will include these requirements in every subcontract of $10,000 or more with such modification of language as is necessary to make them binding on the subcontractor.

2. Equal Employment Opportunity Policy

The contractor will accept as his operating policy the following statement which is designed to further the provision of equal employment opportunity to all persons without regard to their race, color, religion, sex, or national origin, and to promote the full realization of equal employment opportunity through a positive continuing program;

It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, color, or national origin. Such action shall include: employment upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, preapprenticeship, and on-the-job training.

3. Equal Employment Opportunity Officer

The contractor will designate and make known to the Resident Engineer or designated official an equal employment opportunity officer (hereinafter referred to as the EEO Officer) who will have the responsibility for and must be capable of effectively administering and promoting an active contractor program of equal employment opportunity and who must be assigned adequate authority and responsibility to do so.

4. Dissemination of Policy

a. All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such actions, will be made fully cognizant of, and will implement, the contractor's equal employment opportunity policy and contractual responsibilities to provide equal employment opportunity in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

(1) Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's equal employment opportunity policy and its implementation will be reviewed and explained. The meeting will be conducted by the EEO Officer or other knowledgeable company official.

(2) All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer or other knowledgeable company official covering all major aspects of the contractor's equal employment opportunity obligations within thirty days following their reporting for duty with the contractor.

All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer or appropriate company official in the contractor's procedures for locating and hiring minority group employees.

b. In order to make the contractor's equal employment opportunity policy known to all employees, prospective employees and potential sources of employees, i.e., schools, employment agencies, labor unions (where appropriate), college placement officers, etc., the contractor will take the following actions:

(1) Notices and posters setting forth the contractor's equal employment opportunity policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

(2) The contractor's equal employment opportunity policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

5. Recruitment

a. When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be published in newspapers or other publications having a large circulation among minority groups in the area from which the project work force would normally be derived.

b. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minority group applicants, including, but not limited to, State employment agencies, schools, colleges and minority group organizations. To meet this requirement, the contractor will, through his EEO Officer, identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority group applicants may be referred to the contractor for employment consideration.

If the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system permits the contractor's compliance with equal employment opportunity contract provisions. (The U.S. Department of Labor has held that where implementation of such agreements have the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Executive Order 11246, as amended.)

c. The contractor will encourage present employees to refer minority group applicants for employment by posting appropriate notices or bulletins in areas accessible to all such employees. In addition, information and procedures with regard to referring minority group applicants will be discussed with employees.

6. Personnel Actions

Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, or national origin. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with his obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the "discrimination may affect persons other than the complainant, such corrective action shall include such other persons". Upon completion of each investigation, the contractor will inform every complainant of all his avenues of appeal.

7. Training and Promotion

a. The contractor will assist in locating, qualifying, and increasing the skills of minority group and women employees, and applicants for employment.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. Where feasible, 25 percent of apprentices or trainees in each occupation shall be in their first year of apprenticeship or training. If the Training Special Provision is provided under this contract, this subparagraph will be superseded by the Training Special Provision.

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of minority groups and women employees and will encourage eligible employees to apply for such training and promotion.

8. Unions

If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use best efforts to obtain the cooperation of such unions to increase opportunities for minority groups and women within the unions, and to effect referrals by such unions of minority and female employees. Actions by the contractor either directly or through a contractor's association acting as agent will include the procedures set forth below:

a. The contractor will use best efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minority group members and women for membership in the unions and increasing the skills of minority group employees and women so that they may qualify for higher paying employment.

b. The contractor will use best efforts to incorporate an equal employment opportunity clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, or national origin.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the Idaho Transportation Department and shall set forth what efforts have been made to obtain such information.

d. If the union is unable to provide the contractor with a reasonable flow of minority and women referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex or national origin, making full efforts to obtain qualified and/or qualifiable minority group persons and women. (The U.S. Department of Labor has held that it shall be no excuse that the union with which the contractor has a collective bargaining agreement providing for exclusive referral failed to refer minority employees.) If the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, the contractor shall immediately notify the Idaho Transportation Department.

9. Subcontracting

a. The contractor will use best efforts to solicit bids from and to utilize minority group subcontractors or subcontractors with meaningful minority group and female representation among their employees, in accordance with Part IV of these Special Provisions.

b. The contractor will use best efforts to ensure subcontractor compliance with their equal employment opportunity obligations.

10. Records and Reports

a. The contractor will keep such records as are necessary to determine compliance with the contractor's equal employment opportunity obligations. The records kept by the contractor will be designed to indicate:

(1) The number of minority and nonminority group members and women employed in each work classification on the project.

(2) The progress and efforts being made in cooperation with unions to increase employment opportunities for minorities and women (applicable only to contractors who rely in whole or in part on unions as a source of their work force).

(3) The progress and efforts being made in locating, hiring, training,

qualifying, and upgrading minority and female employees.

(4) The progress and efforts being made in securing the services of minority group subcontractors or subcontractors with meaningful minority and female representation among their employees.

b. All such records must be retained for a period of three years following completion of the contract work and shall be available at reasonable times and places for inspection by authorized representatives of the Idaho Transportation Department and the Federal Highway Administration.

c. The contractors will submit to the Idaho Transportation Department for the month of July, a report indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form PR-1391. If on-the-job training is being required by "Training Special Provision," the contractor will be required to furnish Form FHWA-1409 semiannually for periods ending in June and December.

PART II Notice of Requirement for Affirmative Action to Ensure Equal Employment Opportunity (Executive Orders 11246, 11375 and 41 CFR 60-4.2):

1. The Bidder's attention is called to the "Equal Opportunity Clause" and the Standard Federal Equal Employment Specifications" set forth herein.

2. The goals and timetables for minority and female participation expressed in percentage terms for the Contractor's aggregate workforce in each trade on all construction work in the covered areas are as follows:

STANDARD METROPOLITON STATISTICAL AREAS
(SMSA) AND ECONOMIC AREAS (EA)

	Goals for minority for each trade	Goals for female participation in each trade
IDAHO		
165 Salt Lake City-Ogden, UT		
Non-SMSA Counties:		
Bear Lake, Franklin and Oneida	5.1%	6.9%
166 Pocatello-Idaho Falls		
Non-SMSA Counties:	4.0%	6.9%
Bannock, Bingham, Blaine, Butte, Bonneville, Camas, Caribou, Cassia, Clark, Custer, Fremont, Gooding, Jefferson, Jerome, Lemhi, Lincoln, Madison, Minidoka, Power, Teton, and Twin Falls		
167 Boise City		
SMSA Counties:	2.3%	6.9%
1080 Boise City, Ada		
Non-SMSA Counties:	4.4%	6.9%
Adams, Boise, Canyon, Elmore, Gem, Owyhee, Payette, Valley, and Washington		
168 Spokane, WA:		
Non-SMSA Counties:	3.0%	6.9%
Benewah, Bonner, Boundary, Clearwater, Idaho, Kootenai, Latah, Lewis, Nez Perce, and Shoshone		

These goals are applicable to all the Contractor's construction work (whether or not it is Federal or Federally assisted) performed in the covered area. If the contractor performs construction work in a geographical area located outside of the covered area, it shall apply the goals established for such geographical area where the work is actually performed with regard to this second area, the contractor also is subject to the goals for both its federally involved and non-federally involved construction.

The Contractor's compliance with the Executive Order and the regulations in 41 CFR Part 60-4 shall be based on its implementation of the Equal Opportunity Clause specific affirmative action obligations required by the specifications set forth in Part III (following) and its efforts to

meet the goals. The hours of minority and female employment and training must be substantially uniform throughout the length of the contract and in each trade, and the contractor shall make a good faith effort to employ minorities and women evenly on each of its projects. The transfer of minority or female employees or trainees from Contractor to Contractor or from project to project for the sole purpose of meeting the Contractor's goals shall be a violation of the contract, the Executive Order, and the regulations in 41 CFR 60-4. Compliance with the goals will be measured against the total work hours performed.

3. The Contractor shall provide written notification to the Director of the Office of Federal Contract Compliance Programs within 10 working days of award of any construction subcontract in excess of $10,000 at any tier for construction work under the contract resulting from this solicitation. The notification shall list the name, address and telephone number of the subcontractor, employer identification number of the subcontractor, estimated dollar amount of the subcontract, estimated starting and completion dates of the subcontract and the geographical area in which the subcontract is to be performed.

4. Standard Form 257 Monthly Employment and Utilizations Report is required by Executive Order 11246 Section 203 and must be submitted to the Dept. of Labor. Failure to report can result in sanctions which include suspension, termination, cancellation or debarment of contract. A copy of this form should be given to the Resident Engineer.

Part III Standard Federal Equal Employment Opportunity Construction Contract Specifications (Executive Orders 11246, 11375 and 41 CFR 60-4.3):

1. As used in these specifications:

   a. "Covered area" means the geographical area described in the solicitation from which this contract resulted.

   b. "Director" means Director, Office of Federal Contract Compliance Programs, United States Department of Labor, or any person to whom the Director delegates authority.

   c. "Employer Identification Number" means the Federal Social Security number used on the Employer's Quarterly Federal Tax Return, U.S. Treasury Department Form 941.

   d. "Minority" includes:

      (1) Black (all persons having origins in any of the Black African racial groups not of Hispanic origin).

      (2) Hispanic (all persons of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish Culture or origin, regardless of race).

      (3) Asian and Pacific Islander (all persons having origins in any of the original peoples of the Far East, Southeast Asia, the Indian Subcontinent, or the Pacific Islands).

      (4) American Indian or Alaskan Native (all persons having origins in any of the original peoples of North America and maintaining identifiable tribal affiliations through membership and participation or community identification); and

      (5) Portuguese (a person of Portuguese, Brazilian or other Portuguese culture or origin, regardless of race).

2. Whenever the Contractor, or any Subcontractor at any tier, subcontracts a portion of the work involving any construction trade, it shall physically include in each subcontract in excess of $10,000 the provisions of these specifications and the Notice which contains the applicable goals for minority and female participation and which is set forth in the solicitations from which this contract resulted.

3. The Contractor shall implement the specific affirmative action standards provided in paragraphs 7.a. through p. of these specifications. The goals set forth in the solicitation from which this contract resulted are expressed as percentages of the total hours of employment and training of minority and female utilization the Contractor should reasonably be able to achieve in each construction trade in which it has employees in the covered area. Covered construction contractors performing construction work in geographical areas where they do not have a Federal or federally assisted construction contract shall apply the minority and female goals established for the geographical area where the work is being performed. Goals are published periodically in the Federal Register in notice form and such notices may be obtained from any Office of Federal Contract Compliance Programs office or from Federal procurement contracting officers. The Contractor is expected to make substantially uniform progress in meeting its goals in each craft during the period specified.

4. Neither the provisions of any collective bargaining agreement, nor the failure by a union with whom the Contractor has a collective bargaining agreement, to refer either minorities or women

shall excuse the Contractor's obligations under these specifications, Executive Order 11246, or the regulations promulgated pursuant thereto.

5. In order for the nonworking training hours of apprentices and trainees to be counted in meeting the goals such apprentices and trainees must be employed by the Contractor during the training period and the Contractor must have made a commitment to employ the apprentices and trainees at the completion of their training, subject to the availability of employment opportunities. Trainees must be trained pursuant to training programs approved by the U.S. Department of Labor.

6. The Contractor shall take specific affirmative actions to ensure equal employment opportunity. The evaluation of the Contractor's compliance with these specifications shall be based upon its effort to achieve maximum results from its actions. The Contractors shall document these efforts fully and shall implement affirmative action steps at least as extensive as the following:

   a. Ensure and maintain a working environment free of harassment, intimidation, and coercion at all sites and in all facilities at which the Contractor's employees are assigned to work. The Contractor, where possible, will assign two or more women to each construction project. The Contractor shall specifically ensure that all foremen, superintendents and other on-site supervisory personnel are aware of and carry out the contractor's obligation to maintain such a working environment, with specific attention to minority or female individuals working at such site or in such facilities.

   b. Establish and maintain a current list of minority and female recruitment sources, provide written notification to minority and female recruitment sources and to community organizations when the Contractor or its unions have employment opportunities available and maintain a record of the organizations' responses.

   c. Maintain a current file of the names, addresses and telephone numbers of each minority and female off-the-street applicant and minority or female referral from a union, a recruitment source or community organization and of what action was taken with respect to each such individual. If such individual was sent to the union hiring hall for referral and was not referred back to the Contractor by the union or, if referred, not employed by the Contractor, this shall be documented in the file with the reason therefore, along with whatever additional actions the Contractor may have taken.

   d. Provide immediate written notification to the Director when the union or unions with which the Contractor has a collective bargaining agreement has not referred to the Contractor a minority person or woman sent by the Contractor, or when the Contractor has other information that the union referral process has impeded the Contractor's efforts to meet its obligations.

   e. Develop on-the-job training opportunities and/or participate in training programs for the area which expressly includes minorities and women including upgrading programs and apprenticeship and trainee programs relevant to the Contractor's employment needs especially those programs funded or approved by the Department of Labor. The Contractor shall provide notice of these programs to the sources compiled under 6b above.

   f. Disseminate the Contractor's EEO policy by providing notice of the policy to unions and training programs and requesting their cooperation in assisting the Contractor in meeting its EEO obligations; by including it in any policy manual and collective bargaining agreement; by publicizing it in the company newspaper, annual report, etc.; by specific review of the policy with all management personnel and with all minority and female employees at least once a year, and by posting the company EEO policy on bulletin boards accessible to all employees at each location where construction work is performed.

   g. Review, at least annually, the company's EEO policy and affirmative action obligations under these specifications with all employees having any responsibility for hiring, assignment, layoff, termination or other employment decisions including specific review of these items with onsite supervisory personnel such as Superintendents, General Foremen, etc., prior to the initiation of construction work at any job site. A written record shall be made and maintained identifying the time and place of these meetings, persons attending, subject matter discussed, and disposition of the subject matter.

   h. Disseminate the Contractor's EEO policy externally by including it in any advertising in the news media, specifically including minority and female news media and providing written notification to and discussing the Contractor's EEO policy with other Contractors and Subcontractors with whom the Contractor does or anticipates doing business.

   i. Direct its recruitment efforts, both oral and written, to minority, female and community organizations, to schools with minority and female students and to minority and female recruitment and training organizations serving the Contractor's recruitment area and employment needs. Not later than one month prior to the date for the acceptance of applications for apprenticeship or other training by any recruitment source, the Contractor shall send written notification to organizations such as the

above describing the openings, screening procedures, and tests to be used in the selection process.

j. Encourage present minority and female employees to recruit other minority persons and women and where reasonable, provide after school, summer and vacation employment to minority and female youth both on the site and in other areas of a Contractor's work force.

k. Validate all tests and other selection requirements where there is an obligation to do so under 41 CFR Part 60-3.

l. Conduct, at least annually, an inventory and evaluation at least of all minority and female personnel for promotional opportunities and encourage these employees to seek or to prepare for, through appropriate training, etc. such opportunities.

m. Ensure that seniority practices, job classifications, work assignments and other personnel practices do not have a discriminatory effect by continually monitoring all personnel and employment related activities to ensure that the EEO policy and the Contractor's obligations under these specifications are being carried out.

n. Ensure that all facilities and company activities are nonsegregated except that separate or single-user toilet and necessary changing facilities shall be provided to assure privacy between the sexes.

o. Document and maintain a record of all solicitations of offers for subcontracts from minority and female construction contractors and suppliers, including circulation of solicitations to minority and female contractor associations and other business associations.

p. Conduct a review, at least annually, of all supervisors' adherence to and performance under the Contractor's EEO policies and affirmative action obligations.

7. Contractors are encouraged to participate in voluntary associations which assist in fulfilling one or more of their affirmative action obligations (7a through p.). The efforts of a contractor association joint contract-union, contractor-community, or other similar group of which the contractor is a member and participant, may be asserted as fulfilling any one or more of its obligations under 7a through p of these Specifications provided that the contractor actively participates in the group, makes every effort to assure that the group has a positive impact on the employment of minorities and women in the industry, ensures that the concrete benefits of the program are reflected in the Contractor's minority and female work force participation, makes a good faith effort to meet its individual goals and timetables, and can provide access to documentation which demonstrates the effectiveness of actions taken on behalf of the Contractor. The obligation to comply, however, is the Contractor's and failure of such a group to fulfill an obligation shall not be a defense for the Contractor's noncompliance.

8. A single goal for minorities and a separate single goal for women have been established. The Contractor, however, is required to provide equal employment opportunity and to take affirmative action for all minority groups both male and female, and all women, both minority and non-minority. Consequently, the Contractor may be in violation of the Executive Order if a particular group is employed in a substantially disparate manner (for example, even though the Contractor has achieved its goals for women generally, the Contractor may be in violation of the Executive Order if a specific minority group of women is under utilized).

9. The Contractor shall not use the goals and timetables or affirmative action standards to discriminate against any person because of race, color, religion, sex or national origin.

10. The Contractor shall not enter into any Subcontract with any person or firm debarred from Government contracts pursuant to Executive Order 11246.

11. The Contractor shall carry out such sanctions and penalties for violation of these specifications and of the Equal Opportunity Clause, including suspension, termination and cancellation of existing subcontracts as may be imposed or ordered pursuant to Executive Order 11246 as amended, and its implementing regulations, by the Office of Federal Contract Compliance Programs. Any Contractor who fails to carry out such sanctions and penalties shall be in violation of these specifications and Executive Order 11246, as amended.

12. The Contractor, in fulfilling its obligations under these specifications, shall implement specific affirmative action steps, at least as extensive as those standards prescribed in paragraph 7 of these specifications so as to achieve maximum results from its efforts to ensure equal employment opportunity. If the Contractor fails to comply with the requirements of the Executive Order, the implementing regulations, or these specifications, the Director shall proceed in accordance with 41 CFR 60-4.8.

13. The Contractor shall designate a responsible official to monitor all employment related activity to ensure that the company EEO policy is being carried out, to submit reports relating to the provisions hereof as may be required by the Government and to keep records. Records shall at

[illegible] for each employee the name, address, telephone numbers, construction trade, [illegible] identification number when assigned, social security number, race, sex, status (e.g., mechanic apprentice trainee, helper, or laborer), dates of changes in status, hours worked per week in the indicated trade, rate of pay, and locations at which the work was performed. Records shall be maintained in an easily understandable and retrievable form; however, to the degree that existing records satisfy this requirement, contractors shall not be required to maintain separate records.

14. Nothing herein provided shall be construed as a limitation upon the application of other laws which establish different standards of compliance or upon the application of requirements for the hiring of local or other area residents (e.g. those under the Public Works Employment Act of 1977 and the Community Development Block Grant Program).

PART IV Disadvantaged Businesses and Women Business Enterprise Requirements (Executive Orders 11625, 12138, 49 CFR 23, and Section 105 of the Surface Transportation Assistance Act of 1982):

1. A "Disadvantaged Business" (DB) as used herein is defined as a small business concern which is owned and controlled by socially and economically disadvantaged individuals as defined by Section 8(d) of the Small Business Act (15 U.S.C., Section 637(d) and relevant subcontracting regulations promulgated pursuant thereto). A "Women Owned Business Enterprise" (WBE) as used herein is defined as a small business concern which is owned and controlled by one or more women. Owned and controlled means a business which is at least 51 per centum owned by one or more socially and economically disadvantaged individuals or women respective to DB or WBE or, in the case of a publicly owned business, at least 51 per centum of the stock of which is owned by one or more socially and economically disadvantaged individuals or women, respective to DB or WBE; and whose management and daily business operations are controlled by one or more such individuals.

2. "Small Business Concern" as used herein means a small business as defined pursuant to Section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

3. "Socially and Economically Disadvantaged Individuals" means those individuals who are citizens of the United States (or lawfully admitted permanent residents) and who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans or Asian-Indian Americans and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. The Idaho Transportation Department may also determine, on a case-by-case basis, that individuals who are not a member of one of the following groups are socially and economically disadvantaged in accordance with the guideline established pursuant to Title 49 CFR 23, Subpart D, Appendix C.

   a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

   b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

   c. "Native Americans," which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

   d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas; and

   e. "Asian-Indian Americans," which includes persons whose origins are from India, Pakistan, and Bangladesh.

4. To obtain recognition under these specifications a DB or WBE shall be certified as such by the Idaho Transportation Department. Business concerns that may qualify for Idaho Transportation Department certification as DB or WBE should submit requests for application to:

   CIVIL RIGHTS/AFFIRMATIVE ACTION COORDINATOR
   IDAHO TRANSPORTATION DEPARTMENT
   P.O. Box 7129
   Boise, ID 83707

   The Idaho Transportation Department shall be the sole agency responsible for DB and WBE certification. However, appeals for certification may be submitted to the Secretary of Transportation in accordance with 49 CFR, Paragraph 23.55.

   Any third party may challenge the certification of a disadvantaged business (except a DB that has a current 8(a) certification from the Small Business Administration) presumed to be socially and economically disadvantaged by setting forth the challenge in writing to the Idaho Transportation Department in accordance with procedures set forth in 49 CFR, Paragraph 23.69.

5. It is the policy of the U.S. Department of Transportation that DBs and WBEs shall have the

maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds. Consequently the DB/MBE requirements of 49 CFR Part 23 apply to this contract.

6. The Contractor agrees to ensure that DBs and MBEs have the maximum opportunity to participate in the performance of this contract. Contractors shall not discriminate on the basis of race, color, national origin, or sex.

7. The Contractor shall designate a liaison officer to administer the contractor's DB/MBE program.

8. The Contractor will ensure subcontractor compliance with their equal employment opportunity obligations.

9. The dollar volume goal for DB and MBE participation in this contract is 10% and 1%, respectively. Dollar volumes of participation shall be based on estimated DB/MBE gross earnings as adjusted under Section 10 of these specifications. The bidder hereby certifies that good faith effort has been taken to seek out and consider DBs and MBEs. Such effort shall include but not be limited to making contact with potential DBs and MBEs to affirmatively solicit their interest, capability and prices. The Contractor shall document that a good faith effort to locate DBs and MBEs has been conducted. Contractors may obtain a directory of DB and MBE firms from the Idaho Transportation Department Civil Rights Section.

10. The Contractor may count toward the DB and MBE goals indicated above expenditures in total or part to the extent provided herein for materials, supplies, or equipment obtained from DB and MBE suppliers, manufacturers, or lessors provided that those DBs and MBEs assume the actual and contractual responsibility for the provision of the materials, supplies, or equipment.

The entire expenditure to an DB and MBE manufacturer may be counted toward the goals. A manufacturer is defined as a producer of goods from raw materials or one that substantially alters them before resale.

Twenty percent (20%) of expenditures to DB and MBE suppliers that are not manufacturers may be counted toward the goals, provided that those suppliers perform a commercially useful function in the supply process.

Fees for equipment leased from a DB/MBE may be counted in total toward the goals, provided the DB/MBE has ownership or control of the equipment. If the DB/MBE obtains the equipment from other sources, only the net fee to the DB/MBE may be credited against the goals.

11. The apparent successful bidder will be required to furnish the following information prior to the award of contract on forms provided by the Department:

a. Names and Addresses of certified DB/MBE firms and non-minority firms that have been solicited to participate in the contract.

b. Responses from all solicited firms, including their price quotations.

c. Description of work each DB/MBE firm and non-minority firm will perform.

d. Intended dollar amount of participation by each DB/MBE firm and non-minority firm.

12. A contractor's commitment to meet the specified goals will be considered as prima-facie evidence that good faith efforts have been made to obtain DB/MBE participation in the contract.

13. If the DB and MBE participation goals have not been met, the award of contract will be conditioned on determination by the Engineer of documented good faith effort by the Contractor.

Following is a list of efforts that the Idaho Transportation Department will consider in determining the Contractor's good faith effort to obtain DB/MBE participation.

a. Whether the Contractor advertised in general circulation, trade association and minority-focus media concerning the subcontracting opportunities;

b. Whether the Contractor provided written notice to a reasonable number of specific DBs and MBEs that their interest in the contract was being solicited, in sufficient time to allow the DBs and MBEs to participate effectively;

c. Whether the Contractor followed up initial solicitation of interest by contacting DBs and MBEs to determine with certainty whether the DBs and MBEs were interested;

d. Whether the Contractor selected portions of the work to be performed by DBs and MBEs in order to increase the likelihood of meeting the DB/MBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DB/MBE participation);

e. Whether the Contractor provided interested DBs and MBEs with adequate information about

the plans, specifications and requirements of the contract;

f. Whether the Contractor negotiated in good faith with interested DBs and MBEs not rejecting DBs nor MBEs as unqualified without sound reasons based on a thorough investigation of their capabilities;

g. Whether the Contractor made efforts to assist interested DBs and MBEs in obtaining bonding, lines of credit, or insurance required by the Idaho Transportation Department or Contractor; and;

h. Whether the Contractor effectively used the services of available minority community organizations, minority contractors' groups, local, state and federal minority business assistance offices and other organizations that provide assistance in the recruitment and placement of DBs and MBEs.

14. If goals have not been met, contractors requesting permission after contract award to subcontract part of the contract, not originally considered for subcontracting, shall take the affirmative actions required of the bidders in this section. No subcontracting will be approved unless the prime contractor meets goals or demonstrates that a good faith effort has been met.

15. Approval of the contractor's DB/MBE plan, upon which contract award is contingent, requires the contractor to make every reasonable continuing effort throughout the contract to assure that DB/MBE participation remains at a level which will satisfy one of the following requirements:

a. Continuing DB/MBE participation equals or exceeds contract goals.

b. Continuing DB/MBE participation equals or exceeds the approved level which is less than contract goals as allowed under Section 13 of these specifications.

Should situations or conditions arise which prevent a DB/MBE firm from completing work originally planned to be accomplished by that firm, the contractor shall take affirmative action to reestablish DB/MBE participation at a level which will satisfy the requirements of this section. Revised DB/MBE participation plans must be acceptable and approved by the Engineer.

Failure of the contractor to meet the requirements of this specification shall be considered a violation of the contract provisions. Accordingly, the Engineer may exercise the authority to terminate the contract as set forth under Subsection 108.08 - Default and Termination of Contract.

Value of work completed by a DB/MBE firm's surety will not be deducted from the contractor's DB/MBE participation plan.

CIVIL RIGHTS SPECIAL PROVISIONS

Attention of prospective bidders is directed to "Part IV, DB/MBE Requirements" of Civil Rights Special Provisions. The successful bidder will be required to meet the specified goals or provide well documented information to assure that affirmative good faith efforts have been pursued before award of contract is made. DB/MBE prime contractors are subject to these requirements as well as non-DB/MBE firms.

On Sheet 9 of 10 of the Civil Rights Special Provisions, Part IV, Item 9, change the DB participation goal reference from 10% to 5 %.

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PROPOSED DB/WBE COMMITMENTS

(Must be Submitted with Contract Documents Prior to Award of Contract)

Award Date _____

Contract No. _____ Contractor _____ Contractor DB/WBE Liaison Officer _____

Project No. _____ Location _____ Contract Amount $_____ ; FA Amount $_____

Signature of Preparer _____ Date _____

If these goals are not met, it is mandatory that the attached sheets titled "DB/WBE Good Faith Effort" be completed. Failure to complete these forms will prevent contract award. Refer to Civil Rights Special Provisions, Part IV, for more detail. Award of contract is contingent on good faith efforts to provide maximum opportunity for DB/WBE participation in this project.

Goals for DB/WBE subcontracts & Suppliers for this project:

DB $_____(___%); WBE $_____(___%)

PART I: SUMMARY OF DB/WBE GOAL ATTAINMENT

		DB*	WBE*
1.	Total amount proposed to be subcontracted to DB/WBE Subcontractors:	$_____	$_____
2.	Total estimated amount to be paid DB/WBE Equipment Lessors:	$_____	$_____
3.	Twenty percent (20%) of total amount to be proposed DB/WBE Suppliers:	$_____	$_____
4.	Total amount to proposed DB/WBE Manufacturing Suppliers or Delivery Companies: (e.g., asphalt emulsions, cutback asphalts, fabricated signs, etc.	$_____	$_____
	TOTAL	$_____	$_____
	% of Contract Amt.	_____%	_____%

*List under appropriate column, but not both. DO NOT WRITE IN BOXES - FOR DEPARTMENT USE ONLY.

FEDERAL AID %:	FEDERAL AID	$	$

APPROVED ___ NOT APPROVED ___ By _____ Idaho Transportation Depart. Date _____

PART II: CONTINUING AFFIRMATIVE ACTION

After contract award, if DB/WBE goals have not been met, any further solicitation of bids or quotes from subcontractors, suppliers, equipment lessors or manufacturers will require documentation of good faith to obtain DB/WBE participation prior to approval.

PART III: SOLICITED SUBCONTRACTORS (LIST ALL SOLICITATIONS INCLUDING NON-DB/WBE)

BIDS SOLICITED FROM: Name and Address of Subcontractor	DB	WBE	Non DB WBE	Proposed items to be subcontracted; list by contract item numbers and briefly describe proposed sub. work.	Amount bid; if no response, enter NONE	Plan to Use; Enter YES or NO	If solicited DB/WBE sub. is not selected, briefly describe why.

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PART III: SOLICITED SUBCONTRACTORS (LIST ALL SOLICITATIONS INCLUDING NON-DB/WBE) (Continued)

FIDS SOLICITED FROM: Name and Address of Subcontractor	DB	WBE	Non-DB/WBE Proposed items to be subcontracted; list by contract item numbers and briefly describe proposed sub. work.	Amount bid; if no response, enter NONE	Plan to Use; Enter YES or NO	If solicited DB/WBE sub. is not selected, briefly describe why.

PART IV: SOLICITED SUPPLIERS, MANUFACTURERS LESSORS AND DELIVERY FIRMS

BIDS SOLICITED FROM: Name and Address of Company	DB	WBE	Non DB WBE	Proposed items to be Supplied(S),Leased(L), Mfd. (M), or Delivered (D), by Contr. Item Numbers and briefly describe proposed items	S-L-M-D	Amount bid; if no response enter NONE	Plan to Use;Enter YES or NO	If solicited DB/WBE is not selected descr... why.

SUMMARY OF DB/WBE GOOD FAITH EFFORT

If the dollar value goals for DB/WBE participation in this project have not been met, the Contractor is required to complete this form to describe efforts to obtain DB/WBE participation. Each following effort will require an explanation of the action taken.

1. Has the Contractor advertised in general circulation, trade association and minority-focus media concerning the subcontracting opportunities?

2. Has the Contractor provided written notice to a reasonable number of specific DB/WBEs that their interest in the contract was being solicited, in sufficient time to allow the DB/WBEs to participate effectively? Submit a copy of all correspondence soliciting bids from DB/WBEs.

3. Has the Contractor followed up initial solicitation of interest by contacting DB/WBEs to determine with certainty whether the DB/WBEs were interested? Submit all documents for follow-up to initial solicitation.

4. Has the Contractor selected portions of the work to be performed by DB/WBEs in order to increase the likelihood of meeting the DB/WBE goals (including, where appropriate, breaking down contracts into economically feasible units to facilitate DB/WBE participation?

5. Has the Contractor provided interested DB/WBEs with adequate information about the plans, specifications and requirements of the contract?

(over)

SUMMARY OF DB/WBE GOOD FAITH EFFORT, Continued

6. Has the Contractor negotiated in good faith with interested DB/WBEs not rejecting DB/WBEs as unqualified without sound reasons based on a thorough investigation of their capabilities?

7. Has the Contractor made efforts to assist interested DB/WBEs in obtaining bonding, lines of credit, or insurance required by the Idaho Transportation Department or Contractor?

8. Has the Contractor effectively used the services of available minority community organizations, minority contractors' groups, local, state and federal minority business assistance offices and other organizations that provide assistance in the recruitment and placement of DB/WBEs?

9. Describe any other efforts not covered by the above eight points that may indicate the Contractor's affirmative action to obtain DB/WBE participation in this project.

ATTACH ADDITIONAL SHEETS WHERE NECESSARY
ALSO ATTACH ANY CORRESPONDENCE OR OTHER DOCUMENTATION OF GOOD FAITH EFFORTS

DH-315 12/82

REQUEST TO ☐ SUBCONTRACT OR ☐ SUB-SUBCONTRACT
(Check One)

Date _____ 19____ Request Number _____

TO: DISTRICT ____ ENGINEER
ITD DIVISION OF HIGHWAYS
PO BOX _____
_____ ID

PROJECT _____

LOCATION _____

CONTRACT NUMBER _____

FROM (NAME AND ADDRESS):

PRIME CONTRACTOR _____

SUBCONTRACTOR: ☐ MBE ☐ WBE

SUB-SUBCONTRACTOR: ☐ MBE ☐ WBE

LICENSE NUMBER _____

LICENSE NUMBER _____

ITEM NO	QUANTITY	ITEM	UNIT BID PRICE	SPLIT ITEM UNIT PRICE	AMOUNT

SUBCONTRACT OR SUB-SUBCONTRACT TOTAL $_____

TOTAL CONTRACT AMOUNT (PLUS INVOICE ITEMS) (LESS SPECIALITY ITEMS) $_____

PERCENT OF TOTAL CONTRACT %_____

Amount of previously approved subcontracts is $_____. This request will make the total amount subcontracted to date $_____, which is _____ ercent of the total contract amount, less Speciality Items.

SIGNED _____

(Instructions on back)

TITLE _____

DH-315 12/82
(Reverse Side)

CONTRACTOR'S STATEMENT AND ACKNOWLEDGEMENT

The prime contractor on the above contract, whose signature appears below certifies that the following provisions of this contract will be incorporated into and made a part of the Subcontract Agreement and that the agreement will be made available for compliance reviews by [illegible] sion of Highway personnel.

Check applicable contract provision: (See requirements listed in contract)

- [x] U.S. D.O.T.-FHWA Form PR-1273
- [ ] SP-Training
- [ ] Equal Opportunity, including Minority Business Enterprise Solicitation Requirement.
- [ ] Department of Labor Wage Determination
- [ ] State Aid Special Provisions
- [ ] Other _____

The total dollar value of the Subcontract or Sub-subcontract is . . . . . $_____.
(This amount may differ from that shown on reverse side.)

Signed: _____, this ____ day of _____, 19___
(Signature)

_____ _____
(Title) (Name of Prime Contractor)

The subcontractor whose signature appears below also acknowledges his responsibility under the subcontract for including these clauses in any lower tier subcontract awarded by him. (Required only for Sub-subcontracts.)

Signed: _____, this ____ day of _____, 19___
Signature

_____ _____
(Title) (Name of Subcontractor)

INSTRUCTIONS TO CONTRACTOR

1. Address request to District Engineer having jurisdiction of project.
2. Subcontractor's or sub-subcontractor's name and address must be the same as shown on his State license.
3. Fill in all columns using Item Numbers and Items as shown in the Contract. Use column headed "Split Item Unit Price" only if splitting of items is allowed.
4. Contact Resident Engineer for information concerning permissible bid item splitting and determination of "Split Item Unit Price."
5. When "Speciality Items" are listed, place "None" in the "Amount" column.
6. Contract Amount shall include the estimated cost of stipulated price items and invoice price items (i.e., Asphalt). Contact Resident Engineer for assistance in determining the estimated cost of these items.
7. Carry percentages to two decimal places.
8. Be sure your figures are accurate before submitting request.
9. If the Prime Contractor is requesting to subcontract, check the box next to "Subcontract." If the Subcontractor is requesting to sub-subcontract, check the box next to "Sub-subcontract."
10. Check MBE or WBE box only if Subcontractor or Sub-subcontractor is certified as an MBE or WBE with the Idaho Transportation Department. If not documented prior to contract award, good faith effort to obtain MBE/WBE participation must accompany this subcontract request.
11. Complete "Contractor's Statement and Acknowledgement" section.
12. All copies of all "Requests to Subcontract or Sub-subcontract" must be signed and submitted by the Prime Contractor. Submit original and three copies through the Resident Engineer.

STATE OF IDAHO

JOHN V. EVANS
GOVERNOR
IDAHO TRANSPORTATION BOARD
CARL C. MOORE - CHAIRMAN
LLOYD F. BARRON - VICE CHAIRMAN
JOHN M. OHMAN - MEMBER
DARRELL V MANNING
DIRECTOR

TRANSPORTATION DEPARTMENT

PO BOX 7129 BOISE, IDAHO 83707

December 27, 1984

Mrs. Gladys Esquibel, President
Idaho Citizens for Minority Affairs
PO Box 835
Burley, Idaho 83318

RE: SUPPORTIVE SERVICE CONTRACT FC84-084

This letter will serve as an addendum to the Supportive Service agreement referenced above between our organizations.

By this addendum, it is agreed that the termination date of the agreement shall be extended to December 31, 1985. It is further agreed that the budget for agreement FC Register Number FC84-084 shall be $115,000 for the Boise based MBAC and $35,000 for the Idaho Falls based office.

All other terms, conditions and obligations of the original Supportive Service agreement remain in effect. However, there are certain items that the assistance centers have been providing which the Federal Highway Administration now questions as being proper. A clarification has been requested. When we receive a final determination, you will be advised and a contract addendum prepared, if necessary.

Please advise in writing of your acceptance of this contract time extension and the corresponding budgetary amounts.

Sincerely,

DARRELL V MANNING
Director

pae

APPROVED AND ACCEPTED BY _____ 12/28/84
GLADYS N. ESQUIBEL, PRESIDENT ICMA

SAFE TRANSPORTATION MEANS PROGRESS

January 17, 1984

Idaho Citizens for Minority Affairs
Box 835
Burley, Idaho 83318

Re: Supportive Services Agreement, Notice to Proceed
F. C. Register #84-042

Gentlemen:

This will serve as official transmittal and notice to proceed concerning the Agreement for Supportive Services between our organizations.

Enclosed is your executed copy of the Agreement.

Sincerely,

C. J. NEUMAYER
Chief of Administration

cn
Enclosure
bcc: C.F. Court w/attach.
F.C. w/attach.
FMHA w/attach.
C.F. w/original attach.

AGREEMENT

THIS AGREEMENT, Made and entered into this 16th day of January, 19 84, by and between the IDAHO TRANSPORTATION DEPARTMENT, hereinafter called "State", and the IDAHO CITIZENS FOR MINORITY AFFAIRS, Box 835, Burley, Idaho, hereinafter called the "Contractor".

W I T N E S S E T H:

WHEREAS, the State proposed to provide supportive services in connection with approved programs for involving Disadvantaged Business Enterprises for Highway construction projects as set forth in Volume 6, Chapter 4, Section 1, Subsection 2 of the Federal-Aid Highway Program Manual, and;

WHEREAS, the overall purpose of this program is to provide technical assistance to disadvantaged and women-owned businesses to increase their participation in the highway construction industry. In order to do this, it is necessary to establish an DBE/WBE assistance center. The overall program is to be oriented towards training DBE/WBE businesses in the various areas of financing, bonding, licensing, business planning, marketing, bidding, estimating, contracting or subcontracting, scheduling, records and reports, to the levels necessary so the Disadvantaged Business Enterprise (DBE) and/or Women Business Enterprise (WBE) can contract or subcontract on federally assisted highway construction projects, and;

WHEREAS, the State proposes to finance this supportive service from funds allocated under 23 U.S.C. 140(b) and related rules and regulations, and;

WHEREAS, the State has found it necessary and advisable to employ contractors to provide the supportive services as hereinafter described.

NOW, THEREFORE, the premises being in general as stated in the foregoing recitals, it is agreed by and between the parties hereto as follows:

Project No. [illegible]
Reg. # 84-042

I. OBLIGATIONS OF THE CONTRACTOR

A. The Contractor may employ employee(s) and may engage qualified professional consultants if necessary to provide the following assistance to DBE and WBE businesses.

1. Financing

The Contractor shall assist their client DBE and WBE in obtaining the necessary financing to compete for construction contracts and subcontracts; prepare business plans, financial documents, loan packaging and repayment plans.

2. Bonding

The Contractor will provide at no cost to client competent Certified Public Accountants to provide assistance to DBE and WBE in the preparation of financial documents; identify agencies interested in providing bonding; work closely with prime contractors to include DBE and WBE in joint venture and possible inclusion under prime contractor's bonding.

3. Licensing

The Contractor will assist DBE and WBE in preparation of all documents required for licensing and permits.

4. Business Planning

The Contractor will provide technical assistance to DBE and WBE businesses in the preparation of a detailed and comprehensive business plan.

5. Marketing

The Contractor will review advertised contracts to identify and select contracts and/or portions of contracts particularly suited for their clients. A listing of projects, by item and quantity will be transmitted to DBE and WBE Contractors demonstrating capabilities for performance or requesting such information. The Contractor will follow up to determine DBE and/or WBE success and performance.

6. Location and Hours

The Contractor will locate their offices within the City of Boise, Idaho, with office hours from 8:00 a.m. to 5:00 p.m., Monday through Friday.

7. Liaison with Prime Contractors and Goals

The Contractor will work closely with prime contractors in their efforts to seek out qualified DBE and WBE subcontractors, equipment renters and/or suppliers. The Contractor will as a goal, attempt to meet DBE and WBE actual contracting, in the same percentage of participation, as the Idaho Transportation Department Disadvantaged Business Enterprise Plan.

8. Estimating

The Contractor may employ qualified consultants, if necessary, to do the "take-offs" and estimates of quantities. The consultants will work closely with DBE and WBE to provide maximum training. Care will be taken to not fix prices to the estimate, but the Contractor or consultant may review prices upon written request of the client DBE or WBE. Pricing is to be the complete responsibility of the DBE or WBE.

9. Bidding

The Contractor will provide technical assistance in the review and preparation of DBE and WBE bid documents for accuracy, legal content and inclusions. The Contractor will also provide assistance to DBE and WBE in the preparation, review and submission of sub-contracts, equipment renters and/or supply contracts.

10. Scheduling

The Contractor will provide DBE and WBE, upon award of contract, with technical asistance in scheduling to include workforce selection, procurement and delivery of materials and supplies, equipment rental or purchase and liaison with prime contractors.

11. Records, Reports and Documentation

The Contractor will provide technical assistance to the DBE or WBE in the preparation and timely submission of reports, payrolls, progress estimates, payroll taxes and necessary assistance in the preparation of documents to support the above reports.

12. DBE and WBE Development and, Certification

The Contractor will assist DBE/WBE contractors, subcontractors, suppliers and equipment rentors who have demonstrated potential, but have not obtained contracts for highway construction, who may be interested in obtaining highway construction related work. The primary objective will be to increase the level of DBE/WBE participation in the Federal-aid highway construction program.

The Contractor shall assist the Idaho Transportation Department in identification and verification of Disadvantaged and Women Owned Business Enterprises in accordance with guidelines furnished by the Idaho Transportation Department.

All files, records, documents and correspondence pertaining to DBE/WBE client assistance and/or certification shall be confidential materials. This information may be released only with the written consent of the client.

All files pertaining to DBE/WBE certification, shall be the property of the Idaho Transportation Department.

13. Reports

The Contractor will furnish the Civil Rights and Affirmative Action Coordinator of the Idaho Transportation Department, a monthly report stating the progress achieved during the past month. The report will list the DBE and/or WBE involved, the type of assistance received, the contract or sub-contract obtained with dollar amount, prime contractor involvement, etc., and expense items as incurred by the Contractor to accomplish the mission of the Assistance Center.

II. OBLIGATIONS OF THE STATE

The State shall pay to the Contractor, upon receipt of statements and substantiating invoices, actual expenses incurred by the Contractor, up to EIGHTY-SIX THOUSAND EIGHT HUNDRED NINETY-FIVE DOLLARS ($86,895). It is specifically agreed between the Contractor and the State that the State

shall not be obligated in excess of EIGHTY-SIX THOUSAND EIGHT HUNDRED NINETY-FIVE DOLLARS ($86,895) for all services including administrative overhead rendered by the Contractor or its subcontractors in connection with this Agreement, in accordance with the attached annual budget, marked as Attachment A and by this reference made a part hereof.

III. GENERAL PROVISIONS

A. The Contractor agrees to confer with the State from time to time at the State's request during the term of this Agreement. The Contractor agrees to prepare and present such information to the State as may be pertinent and necessary or as may be requested by the State, in order for the State to analyze the project being carried out pursuant to this Agreement. The Contractor agrees to negotiate changes, amendments, or revisions in the detail of the work as may be required by the State. The Federal Highway Administration shall have the right to participate in conferences between the Contractor and the State, and to participate in the review or examination of the work and progress of the Contractor.

B. Term

This Agreement shall become effective January 16, 1984, and continue until December 31, 1984, unless the funds provided under this Agreement are exhausted prior to this date. In the event that the funds are exhausted, the Agreement will be considered terminated on such date. This Agreement may be renewed and extended for an additional period of time by mutual agreement of the parties in writing.

"Federal Funding Termination." It is understood and agreed that the source funding for this program involves federal funds. In the event federal funds are not available for implementation or conducting this project, this contract may be terminated without liability on the part of the State to the extent such federal funds are available for work performed up to the date of termination.

C. Covenant Against Contingent Fees

The Contractor warrants that he has not employed or retained any company or persons, other than a bona fide employee working solely for the contractor, to solicit or secure this Agreement, and that said Contractor has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, brokerage fee, gifts or any other consideration, contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this warranty, the State shall have the right to annul this Agreement without liability, or, at its discretion, to deduct from the contract price or consideration, or otherwise record, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

D. Termination

The State may terminate this Agreement if the Contractor fails to comply with any provisions of the Agreement; if the progress or quality of the work is unsatisfactory; or for any other cause which, in the judgment of the State, makes such termination advisable. Prior to giving notice of termination for the reasons set forth above, the State shall notify the Contractor in writing of any deficiencies or default in the performance of the terms of this Agreement, and said Contractor shall have ten (10) days thereafter in which to correct or remedy any such default or deficiency, and upon their failure to do so within said ten (10) days, such notice of termination in writing shall be given by the State. Upon receipt of said notice the Contractor shall immediately discontinue all work and service unless directed otherwise, and shall transfer all documents pertaining to the work and services covered under this Agreement to the State. In event of such termination, the State shall pay the Contractor only the expenses as provided under this Agreement incurred before the termination date not exceeding EIGHTY-SIX THOUSAND EIGHT HUNDRED NINETY-FIVE DOLLARS ($86,895).

E. Disputes

Any dispute concerning a question of fact in connection with the work shall be resolved by conference between the parties hereto, but the decision of the State shall be final and binding.

F. Responsibility for Claims and Liability

The Contractor shall save and hold harmless the State, its members, officers, agents and employees, from all claims, suits or actions whatsoever nature caused by, or arising out of the activities of the Contractor, its subcontractors, agent, or employees, under this Agreement.

G. Compliance with Laws

The Contractor shall comply with all federal, state and local laws, ordinances and rules applicable to the work under this Agreement. Furthermore, such provisions as are necessary to comply fully with the laws of the State of Idaho concerning public contracts and provisions to be included therein are hereby made a part of this Agreement by this reference and the Contractor shall comply with the obligations and other provisions of said laws, the same as though such obligations and provisions were fully set out herein. Contractor agrees to abide by the provisions of OMB Circular No. A-122 marked Attachment "B" attached hereto, and by this reference made a part hereof, also Civil Rights Act provisions marked Attachment "C" and by this reference made a part hereof.

H. Assignment, Transfer or Subcontracting

Contractor shall not assign, transfer or subcontract this Agreement, any part hereof or any part of the work covered by this Agreement, without the prior written consent of the State, and any such assignment, transfer or subcontracting without such prior written consent shall be grounds for immediate termination of this Agreement by the State. No consent of the State shall be given in any case, however, to any subcontracting in excess of 50% of the work

of the Contractor under this Agreement excluding "specialized services" based on the amount of the total contract price attributable to such subcontracted work. The contracting referenced in IA2 and IA8 are excluded from the provisons of this paragraph.

I. Successors and Assigns

The provisions of this Agreement and all the rights and obligations hereunder shall extend to and bind the approved successors, assigns, transferees and subcontractors of the Contractor and any successors or assigns of the State.

J. Inspection

The Contractor agrees that the State and the Federal Highway Administration official shall have the right to inspect the Contractor's records and audit all the Contractor's records that pertain to this Agreement. The Contractor agrees to maintain these records for a period of three years after the termination of this Agreement for the purpose of inspection and audit.

IV. PAYMENT

1. The amount of payment for work to be performed by the Contractor shall be as set forth in Part I of this Agreement, up to a maximum of EIGHTY-SIX THOUSAND EIGHT HUNDRED NINETY-FIVE DOLLARS ($86,895). In the event additional supportive service money becomes available, the scope of this Agreement may be extended by mutual consent of the parties, in writing.

2. Partial Payments

The State shall pay to the Contractor, upon receipt of statements and invoices, actual expenses incurred by the Contractor. These payments shall not be made more often than once every month, and will reflect actual expenses for the previous month. In event of termination, the Contractor shall be paid in full for satisfactory work.

Partial payment shall not be construed as an acceptance or approval of any part of the work covered herein and will in no way relieve the Contractor of the responsibility for acceptable performance of any work. Approval by the State of the Contractor's certified percentage and completion shall be for the purpose only of partial payments to the Contractor. The use of such approved percentage as a basis for making the payments to subcontractors shall be at the Contractor's own risk. The State reserves the right to make such audit of Contractor's record as the State may deem necessary to verify billings. Final payment to the Contractor will be made within thirty (30) days after completion and acceptance by the State of all work under this Agreement.

3. The Contractor will be allowed no greater than ten percent (10%) of the contract costs for Administrative Overhead as reflected in the budget, Attachment "A".

IN WITNESS WHEREOF, the parties hereto have set their hands and affixed their seals as of the day and year first above written.

IDAHO TRANSPORTATION DEPARTMENT

Darrell V Manning ED

DARRELL V MANNING, Director

Approved as to form:

Legal Counsel

IDAHO CITIZENS FOR MINORITY AFFAIRS

By

FHWA - REGION 10

STATE:

FISCAL YEAR | MONTH

FEDERAL-AID SHARE OF CONTRACTS AND SUBCONTRACTS AWARDED TO DBE/WBE's

CONTRACTOR/CONSULTANT NAME, CITY, AND STATE	SUB = S PRIME = P CONSULT. = C	MINORITY CODE*	AWARD DATE	FEDERAL-AID SHARE OF CONTRACT AMOUNT

TOTAL FED-AID CONTRACTS AWARDED THIS MONTH$

TOTAL DBE CONTRACTS AWARDED THIS MONTH $

TOTAL WBE CONTRACTS AWARDED THIS MONTH $

TOTAL DBE CONTRACTS COMMITTED THIS MONTH $

TOTAL WBE CONTRACTS COMMITTED THIS MONTH $

PREPARED BY

TITLE

* B - Black H - Hispanic I - American Indian A - Asian W - WBE

U.S Department of Transportation

Quarterly Report of MBE-DBE/WBE Awards and Commitments

1. Administration	4. Name of Recipient	7. Annual MBE-DBE Goal %
2. Fiscal Year	5. Address	8. Annual WBE Goal %
3. Quarter	6. City/State/Zip	

9. Total prime contracts/procurements awarded this quarter to all contractors (a) Number _____ (b) $ value _____

	(a) MBE-DBE		(b) WBE	
	Number	$ Value	Number	$ Value
10. MBE-DBE/WBE prime contracts-procurements awarded this quarter				
11. MBE-DBE/WBE subcontracts-procurements awarded this quarter				
12. Subcontracting-procurement commitments to MBEs-DBEs/WBEs this quarter				

13. MBE-DBE prime and subcontract-procurement awards by ethnic group

	Black American	Hispanic American	Native American	Asian-Indian American	Asian-Pacific American	Other	TOTAL
Number							
$ value							

14. Number of MBE-DBE/WBE prime and subcontract-awards by type of work

Type of Work	MBE-DBE	WBE
a. **Professional/Consultant Services**		
(1) Engineering		
(2) Architectural		
(3) Accounting *		
(4) Right of Way		
(5) Other		
b. **Construction:**		
(1) Grading & Drainage		
(2) Paving		
(3) Structures/Buildings		
(4) Materials		
(5) Equipment		
(6) Trucking		
(7) Traffic Control		
(8) Landscaping		
(9) Other		
c. **Supplies**		
(1) Fuel *		
(2) Other *		
d. **Equipment**		
(1) Leasing *		
(2) Purchase *		
(3) Other *		
e. **Other** *		
TOTAL		

* Not Applicable to FHWA

Mr. MITCHELL. I thank you for being here and for the good job your State is doing.

In your screening, do you eliminate potential "front" companies?

Mr. MORSE. We make every attempt to do so. I would suspect the greatest portion of our committee's time is spent in examining this particular issue. Other aspects are easier to see.

Mr. MITCHELL. I would assume that Idaho, like most other States, has a broad State law relating to making false and fraudulent statements to the State government? Most States have that.

Mr. MORSE. Yes. To my knowledge, we do not have a "front" law, as well.

Mr. MITCHELL. But a broad general law of making a false or fraudulent statement, that kind of law exists in most of the 50 States, I think. I assume you would have one.

Mr. MORSE. I suspect so as well.

Mr. MITCHELL. Which means, if all else should fail, "front" companies could be prosecuted under State law, under that broad general law?

Mr. MORSE. I would suspect so.

Mr. MITCHELL. Have you had any prosecutions?

Mr. MORSE. We have not.

Mr. MITCHELL. Is that because you managed to successfully wipe out the potential for danger?

Mr. MORSE. Well, I hope that is the reason.

Mr. MITCHELL. I was very pleased to hear you say that you utilize DBE's from other States, States adjacent, contiguous to Idaho. That just makes sense. I get furious when some State officials tell me, "We don't have the minority business persons within the State to perhaps meet our goals." The whole secret of success in application is the mobility of business. That is the secret of success. When we do contracting work, we do not get all contractors located in Baltimore, which is my city. I think it is unreasonable and unfair to somehow or other put a ban on minority businesses because they are not located in your particular State. Obviously, my preference, and I am sure it is yours, is to give your State businesses the first crack at State contracts.

But when you cannot, then that is the amicable way. Bechtel, are they confined to one area of the country? No. Obviously, I am very pleased you are doing that.

Suppose the prime comes in and says, "OK. I am going to utilize disadvantaged businesses." He is the successful bidder. How much time would elapse with that successful bidder, before he would have to submit his proposed DBE commitment to you?

Mr. MORSE. The first thing that goes to a prime contractor after opening of bids is the notice that he is the apparent low bidder, prior to preparation of the contract documents. At that point, with that first letter, the prime contractor is sent the DBE commitment form. He begins work filling it out then. Supposedly, he has begun work assembling his proposed subcontractors prior to making his bid.

There is a time lapse of perhaps a week in the preparation of the contract documents. He has 15 days after receipt of the contract documents to return the contract. His DBE commitment must be done by that time or before award.

Mr. MITCHELL. Thank you. I just have one other question.

Has your State attempted to break contracts down into smaller sizes which might help the disadvantaged business persons?

Mr. MORSE. Most of our contracts are not large, as you look nationwide. We have a contract expenditure of approximately $85 million STAA funds, each year. We had a mix. There are larger contracts and a large bridge, for example, or perhaps a $6 million State project. We also have contracts, one recently let, for the drilling of a well. Another was bridge repair. Both of those were contracted as primes by minority businesses.

Mr. MITCHELL. You give me hope.

Mr. MORSE. I might add, sir, most of these were their first time as a prime contractor. It has been a joy to work with them.

Mr. MITCHELL. That is what it is all about.

Thank you for your testimony. You have eliminated some of the bile in my system, injected because of these—well, never mind.

Congressman Hayes, do you have any questions?

Mr. HAYES. Thank you, Mr. Chairman.

I want to say at the outset, Mr. Morse, that I share the words of commendation expressed by our chairman. You have a very successful program in the State of Idaho.

Mr. MORSE. Thank you, sir.

Mr. HAYES. I, for one, when I saw Idaho listed on the list of testimony to be given here, said—Well, I never knew that it was 6 percent minorities in the State of Idaho—I thought maybe you might have had to have "transplants" to reach that figure.

Be that as it may, success seems to give us some direction in other areas where we certainly are not as successful, and I hope you would be able to embellish upon that.

How far in advance does a successful bidder have to submit his proposed DBE commitments or his other summary of a good faith effort? Is there a certain number of days?

Mr. MORSE. No, sir; the number of days begins when he receives his notification that he is apparent low bidder. There is approximately 1 week until the contract documents can be prepared and sent to him. He has 15 days to return the documents. We have another 15 days then within which to negotiate. So, he has that length of time and we have been known to extend the time for a contractor to get his documents back to us if he is having some difficulties meeting his DBE obligations.

Mr. HAYES. You did answer that question by our chairman. I did not listen too clearly to the answer, though. Do you believe that DBE's would benefit more from the projects if the contractors were divided into small portions? I think there may be some redundancy in that question. I just want to clear that up.

Mr. MORSE. A great majority of all our DBE firms are in the subcontracting or specialty business. I suspect that the smaller bits the contracts are broken into, the more they might act as prime contractors. They are functioning well, subcontracting various portions of the work from prime contractors.

Mr. HAYES. Once it is established that the goals are not realistic for an individual contractor—that has occurred in the State of Idaho—how is the adjustment made in the contracts special provisions? Do you just shift gears, so to speak?

Mr. MORSE. The statement in our civil rights provisions that 10-percent DBE and 1-percent WBE are required on the projects are part of a printed insert. The front portion of our contracts or contract documents going out for bid contains another set of special provisions that are peculiar to that project. If there is to be a change in the 10 percent, it is indicated specifically in that front section as being particular to that project.

Mr. HAYES. My final question, I guess, is one that we have run into quite often in field hearings and other areas. It has to do with the area of financing, bonding, licensing, and planning. These systems sometimes have become extremely difficult barriers for minorities to overcome. How successful has your supportive services been to contractors in these areas?

Mr. MORSE. The supportive services contractor has been extremely helpful, particularly in the bonding area. He has a bonding consultant that works directly with him. They generally have been able to either obtain bonding for the DBE's or persuade prime contractors to waive that bonding requirement. We are aware that there is a bonding program through the Small Business Administration. In discussions with the supportive services contractor this past week concerning this issue, he indicated that although some DBE's may have availed themselves of the services, they have yet to find the necessity of directing them to SBA for bonding purposes.

As I indicated in my direct testimony, funding does still seem to be a problem that we see in our area. Again, I consulted with the supportive services contractor about that, because they have the day-to-day contact with most of our disadvantaged businesses. Their discussions with those businesses state that the difficulty has to do with their small size and limited assets that does perhaps make it difficult to obtain financing.

Mr. HAYES. Would the State of Idaho support a reauthorization of the program?

Mr. MORSE. I do not know.

I can speak for the State on the status quo. I cannot, as far as what future policy might be.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. MITCHELL. Thank you, Mr. Hayes.

When you sent in your questionnaire, you raised a couple of questions you wanted an answer to. Mrs. Bryant will see you sometime this morning to respond to those questions that you asked.

Mr. MORSE. Thank you, Mr. Chairman.

Mr. MITCHELL. Thank you for making an effort.

I guess the most important thing is if you do not like it, there is a law. God help the country if States and other entities start flaunting the law on their own. Thank you.

Mr. MORSE. Mr. Chairman, I appreciate the opportunity to participate in an American Government lesson such as this. I do want to express my appreciation both to the committee and most particularly to your staff. Mrs. Bryant, you have been very helpful.

Mr. MITCHELL. Thank you.

Our next witnesses are from the North Carolina Department of Transportation, Mr. George Wells, the highway administrator; Mr.

Berry Jenkins, the manager of construction; and Mr. Sylvania Wilkerson, assistant secretary for planning and progress.

I want to express my gratitude to your former Governor, Governor Hunt. We were in North Carolina when the program first got started and he made a public commitment on several occasions to the press. He said, "My State, North Carolina, will meet its goals." He is no longer Governor, but I know that he set the precedent for other Governors to follow in his footsteps by issuing similar formal statements.

If you ever see the former Governor, please convey my gratitude to him.

We have copies of your testimony. Again, I would suggest and remind you that you merely make your most salient and important points, rather than read the whole testimony. The entire testimony will be incorporated into the record.

TESTIMONY OF GEORGE E. WELLS, HIGHWAY ADMINISTRATOR, NORTH CAROLINA DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY BERRY G. JENKINS, JR., MANAGER OF CONSTRUCTION, AND SYLVANIA WILKERSON, SR., ASSISTANT SECRETARY FOR PLANNING AND PROGRESS, STATE OF NORTH CAROLINA

Mr. WELLS. Thank you, Mr. Chairman and Congressman Hayes.

As you made your comments to the previous speaker on his testimony, I scanned mine to see what I might have left out. I found that every item is important. So, I will follow fairly closely to the testimony initially, with your permission.

I also have with me, as you indicated, Mr. Sylvania Wilkerson, assistant secretary for transportation, planning and progress. Mr. Wilkerson's office is responsible for our civil rights program within the department and coordinates closely with Governor Martin's office.

Mr. Jenkins, on my left, is manager of construction. His office administers our DBE program and has been involved for over 10 years with North Carolina's program.

Regrettably, Mr. Stith was unable to come this morning. Mr. Wilkerson and I assure you we will brief him and the Governor on your hearing today.

We are indeed pleased to respond to your request for testimony on North Carolina's implementation of section 105(f) of STAA. You requested in your letter that our testimony include information on eight specific points. I will first cover these points, giving you some observations. And following this we will be glad to respond to questions from you both.

Item number one requested information on North Carolina's certification process.

Our department developed its certification process in accordance with section 49 of the Code of Federal Regulations. It utilizes application forms, minority business questionnaire, schedules A and B, which are patterned after the format in the March 31, 1980, Federal Register.

The certification process is initiated when an applicant submits a minority business questionnaire on those forms. They are reviewed

by representatives of three work elements within the department prior to approval being given.

They are our department's EEO section, which is within the construction unit of our construction branch.

After the EEO section has made their determination, the application is forwarded to Mr. Wilkerson's office, the assistant secretary for planning and programming, for an independent review and recommendation.

It is then forwarded to the construction branch office, which is Mr. Jenkins' office, for final review. This, too, is an independent review of the information that is submitted. And at this level, any differences of opinion are resolved between the elements, if they do exist, and the final decision is rendered at that time.

This initial determination is based on review of application data and telephone interviews. Personal interviews or validations are conducted for all applicants whose operations appear to be marginally eligible prior to making a decision on certification. When out-of-State firms are involved, background data is solicited from the certifying authorities in the home State prior to a decision being made for certification in North Carolina.

Certifications normally take 7 to 10 days through regular channels if adequate documentation is included in the initial submittal. This time can be reduced if the initial submittal is in order and application is walked through, as we have done on numerous occasions.

Our certifications are valid for 1 year. Then a firm is required to submit an updated minority business questionnaire annually to remain eligible for certification renewal. Renewals follow the same channels for approval as the initial certification requests. Annual validation reviews are conducted on all DBE firms with active contracts to determine their continued eligibility to participate in the program.

Applicants are notified in writing of the department's decision relative to certification. If the certification is denied, the applicant is advised of the right to appeal the decision to the U.S. Department of Transportation. We have had no complaints registered to date concerning our certification process in North Carolina.

Item 2 you requested specific attention to involves the procedures which are used by North Carolina to ensure compliance with section 105(f) regarding DBE participation.

The principal mechanism used by our department to ensure compliance is the project special provisions which are included in all Federal-aid contracts. These provisions establish the individual contract goals and require the apparent lowest bidder to submit the committee DBE/WBE participation to the department within 7 days after the bid opening. If the submitted DBE/WBE participation does not meet or exceed the contract goals set by the department, the apparent lowest responsive bidder must submit information to satisfy our department that sufficient reasonable efforts have been made to meet the contract goals.

During the construction of the project, if the submitted DBE/WBE subcontractor is unable to perform satisfactorily, the contractor, prime contractor, must take all necessary, reasonable steps to replace the DBE sub with another DBE subcontractor.

Failure to comply with the MBE project special provisions may result in the following sanctions against the prime contractor: (1) Disqualify the contractor and any affiliated companies from further bidding for a period of time no less than 1 month nor more than 12 months from the date of disqualification as notified by certified mail; and (2) disqualify the contractor and any affiliated companies for award of all contracts for which bids may have been received and opened.

In addition to our contract special provisions, our department keeps the contracting industry informed of our MBE program requirements through the AGC-DOT joint committee meetings and through monthly meetings conducted for minority contractors by our department's EEO section.

Mr. MITCHELL. Excuse me.

Mr. WELLS. Yes, sir.

Mr. MITCHELL. Did you say the State has monthly joint meetings with the Associated General Contractors?

Mr. WELLS. Well, monthly or bimonthly. Recently they have been bimonthly meetings. But we have a standing committee, joint committee between the Associated General Contractors and DOT that do meet to discuss problems of mutual interest in contract administration.

The monthly meetings may have misled you, Mr. Chairman, in that the monthly meetings are with the minority contractors.

Mr. MITCHELL. OK.

Mr. WELLS. They are held on a monthly basis. And that is administered through our EEO section in our construction branch.

We have experienced no significant compliance-related problems to this point in time.

Item 3, you requested information on the enforcement mechanism used by North Carolina to ensure that front companies do not participate in the program.

Our department uses a variety of enforcement mechanisms in our attempt to ensure that front companies do not participate in the program in North Carolina. Our screening activities are divided into two basic areas. The first deals with screening of firms both in the initial certification stage and also in followup validation stage. As a new firm is certified it is evaluated very carefully, not only to substantiate that an eligible minority will have at least 51 percent ownership of the firm, but more importantly, that he will have management control of the operations of the firm. This is evaluated based on written information supplied, personal interviews, and in most cases onsite visits to the offices of the firms.

In addition, at some point after initial certification, usually about 1 year, and if the firm has obtained work, a validation review is made on the office or at the project site where the contract is under construction. This is done to ascertain that the firm is operating as portrayed on the submitted certification schedule. Depending on the findings of these reviews, our staff will either validate the certification, decertify the firm for not operating as portrayed, or advise the firm that continued certification is contingent upon changes in operations necessary to assure the minority individual is exercising the appropriate role in the operations. This process is very judgmental by nature and is one of the most difficult parts of

the program to administer, especially where 51 percent to 49 percent partnership firms are involved, as we have several in North Carolina. Even if a firm is suspect of not being managed and controlled by the minority partner in those situations, being able to document it to the extent that certification can be withdrawn is a difficult task.

The second basic area of enforcement involves the actual daily monitoring of MBE work on the projects during the actual construction phase.

Our resident engineers, which are onsite project administrators who are employed by the department in our construction branch, have been provided written instructions requiring them to assure that MBE firms shown in our contracts as participating in the performance of the work are, in fact, actually performing the work that they are subcontracted for. This monitoring will consist of visual observation of company operations, interviews with subcontract employees to determine who they are actually working for, asking to see paycheck stubs, et cetera, to determine who is paying those employees, obtaining copies of equipment lease agreements, if the equipment being used does not appear to belong to the subcontractor of record, et cetera.

Our resident engineers, Mr. Chairman, are on the job every day during the life of the contract.

When we first began this project monitoring activity, we found in some cases that work supposedly being done by an MBE sub was actually being performed by a majority subcontractor or, in some cases, by the prime contractor's workforce. Through our constant monitoring efforts we now believe we have virtually eliminated these practices.

In many cases the same end results can be achieved within the Federal regulations by the MBE firms temporarily hiring another contractor's workforce, leasing his equipment, et cetera. It is our belief that much of the goal achievement presently being obtained in many States is through concepts such as this, which are perfectly legal, but actually are doing little to put experience and funds into the minority community.

Item 4, your letter asked for specific information on the efforts which are being made by North Carolina to eliminate and alleviate any other barriers which restrict DBE participation in this program.

Our department has systematically concentrated on eliminating barriers which in any way restrict DBE participation in its MBE program.

To effectively counteract the lack of communication which exists between our prime contractors and DBE firms, which has been identified as one of the major barriers, our department planned and established six area workshops. These workshops brought together in each area of the State the prime contractors, minority business enterprises, and our DOT project administrators to discuss mutual problems relating to carrying out this program.

Many DBE firms have not been able to obtain work due to their inability to estimate and to bid. In order to assist the DBE firms, our department has obtained the assistance of prime contractors in instructing DBE firms in the fundamentals of estimating and bid-

ding highway work. In addition, a supportive services consultant has provided similar training to various MBE's.

As many DBE firms do not have the necessary background and experience in plan reading for highway plans, 12 DBE firms were invited to attend a 2-day plan reading workshop sponsored by the Associated General Contractors in North Carolina at no cost to the participants. Our department has also planned additional plan-reading workshops for DBE firms subsequent to their completion of instructions in estimating and bidding.

Through our supportive services consultant and our own staff, our department has assisted every MBE firm which requested assistance in developing a financial statement for their company.

The inability of DBE's to secure bonding has always been a major barrier. Currently, our department does not require that a prime contractor obtain a bond from a subcontractor. Our department has also assisted DBE firms in obtaining bonding through the Small Business Administration Bonding Program and through a private firm, Archer Bonding and Insurance Co. Our department strongly believes that development of bonding capability is necessary for an MBE firm to ultimately succeed.

To assure that DBE firms are not hindered by insufficient knowledge of the fundamentals of operating a business, our department has developed a program for instructing selected DBE firms in accounting procedures and techniques, business management procedures and techniques, plan reading, estimating, and bidding. This program is accomplished through the efforts of a supportive services consultant which is experienced in these areas.

Our department, through its supportive service consultant again, also furnishes two rooms at a hotel which is utilized by the contracting industry at bid-letting time, and these two rooms are used for the minority firms as headquarters and a point of contact. It provides a single place for quoting work and operating as a message center between the primes and the subs. This was set up because many of the MBE firms could not afford to stay at the hotel where the contractors gather. And also, we do not provide a list of planholders to the public, and so there was some difficulty by the minorities on being able to contact the primes that were interested in a particular job, and vice versa.

Item 5, the information system used by North Carolina for collecting and compiling data on DBE participation under the act.

We do not have an information management system currently in effect for collecting and compiling data on DBE participation. Our State Information Processing Services Center, which is our computer center, is in the process of developing appropriate programs for this purpose. They are making progress. And we are hopeful that the new programs will be implemented in time to accommodate computerized recordkeeping for fiscal year 1985-1986.

We do have the information, though, in that our department manually maintains the necessary records to monitor the program in our construction branch.

Item 6, you asked for information on other problem areas which have been identified that impact DBE participation and performance in North Carolina.

No. 1 is lack of operating capital for the disadvantaged business enterprise firms. This has resulted in the inability to begin work on the projects on time, having inadequate workforce, materials procurement problems, and limits the ability of the DBE firms to grow and diversify.

The second problem area that we have encountered is the DBE inability to obtain the required equipment necessary to perform a contract. This causes inefficiencies and poor production which affects the job costs and also the relationships with the prime contractors.

The third problem area is the DBE's lack of credit capability, creating a firm's inability to purchase materials, equipment, and make payrolls, which may result in loss of subcontracts.

Another is the DBE inability to market their firms. They simply do not know how to sell their firms' capabilities and experience to the prime contractors in North Carolina. Of course, this inability to market their experience hurts their ability to obtain work.

The next problem area identified is the DBE inability to negotiate contract prices. This has resulted in DBE firms' acceptance of subcontracts at prices which do not allow for reasonable profits to them and, in some cases, in their inability to obtain a subcontract. The long-term effect is a deficit operation and subsequent business failure of the firm.

Next problem is the DBE inability to secure insurance. Many DBE firms are unwilling or unable to secure proper insurance coverage, coverage which is needed to be a viable highway contractor. This also affects their ability to secure and complete work.

The last is the DBE inexperience in subcontract negotiations. Many firms do not know how to protect themselves by ensuring that proper language is included in their subcontracts to address items of payment schedules, retainages, work notices, et cetera, which ultimately impact on their job costs.

The next item that you requested specific attention and comment to was the total dollar amount of funds appropriated by DOT to North Carolina under the Surface Transportation Assistance Act of 1982 for fiscal year 1984 and 1985.

In Federal fiscal year 1983-84, there were $235,822,280 in Federal funds. In fiscal year 1984-85, North Carolina was apportioned $328,883,401.

These are the apportionments. It should be noted that the obligation ceiling in 1983-84 was only $233,396,000; and in fiscal year 1984-85, $243,885,824.

The final item you asked for information on was the amount of that total that North Carolina has used to provide contracting opportunities for DBE's for fiscal year 1984 and 1985.

In the prepared statement that has been given to you is a summary covering those 2 years, with the amounts identified for preconstruction operations, that is, plan preparation. That is identified under the design branch.

I will not review the actual dollar amounts unless you would prefer.

In the right-of-way branch is for right-of-way acquisition and also the development of appraisals.

And, of course, the biggest item is the construction branch totals.

For each fiscal year the total Federal-aid contracts awarded for 1983–84, was $286,230,025.

Fiscal year 1984–85, the total was $221,154,419.

During those same 2 fiscal years the DBE commitments and awards for the same three categories, the totals for 1983–84 were $30,667,605. For 1983–85, $21,586,743.

Translating into the percent of DBE participation, in North Carolina for Federal fiscal year 1983–84, we had a participation rate of 10.7 percent. And last fiscal year, 1984–85, our participation percentage was 9.8 percent.

In giving you some general observations from our department, our department has established an overall program goal for fiscal year 1985–86 of 10-percent DBE and 1-percent WBE participation in our Federal-aid highway program. In establishing these goals for Federal 1985–86, we honestly feel our department may not be able to achieve the DBE goal due to our increased Federal-aid highway construction program exceeding the capacity and capability of the DBE industry in North Carolina.

During Federal fiscal 1985–86, our department has programmed the award of more than $380 million in Federal aid construction contracts. A 10-percent DBE goal will result in at least $38 million specified to be accomplished by DBE firms. Based on our experience in North Carolina and our recent assessment of the capacity and capability of the DBE industry in our State, achievement of the 10-percent DBE goal during Federal fiscal year 1985–86 will be difficult. We do, however, and will exert our best efforts to achieve the 10-percent goal during the Federal fiscal year.

In North Carolina we have few DBE prime contractors. Only two DBE firms have been prime contractors on highway contracts awarded by the department since 1980. DBE goals on Federal-aid highway construction contracts must be substantially achieved through the subcontracts between the prime and the DBE firms.

Our highway construction contracts normally allow 12 to 36 months, depending upon the size and the complexity of the project, for the prime contractor to actually complete the work. Actual achievement of the DBE contract goal occurs throughout the contract period based on the items of work which are subcontracted by the prime contractor.

For example, actual achievement of the DBE goals for highway construction contracts awarded in Federal fiscal year 1984–85, will occur during 1985, 1986, and 1987. It is conservatively estimated by our staff that 40 percent of the work to be accomplished by DBE firms on Federal aid highway construction contracts awarded during fiscal 1984–85 will not be accomplished during fiscal year 1984–85.

The experience that we are having in North Carolina is summarized for the past 3 Federal fiscal years as follows: In Federal fiscal year 1982–83 we awarded $143.5 million in Federal aid contracts. In those contracts the DBE goal at the time of award was 6.4 percent or $9.2 million.

During the construction of those contracts the number of DBE firms that failed or defaulted in performing the work were five.

In fiscal year 1983–84, the amount of Federal aid contract awards was $286.2 million. The DBE goal that year was 10.7 percent, or

$30.7 million. The amount of DBE subcontract defaults in performing that work was 19.

In Federal fiscal year 1984-85, the total amount of Federal aid was $221.2 million. The DBE goal rate was 9.8 percent at the time of award, or $21.6 million. But the number of DBE subcontract defaults has risen to 42.

This, Mr. Chairman, is a real problem in our State, the default of our DBE's.

As noted in the data, there is a drastically increasing number of defaults by the highway construction subcontracts. This increase is due to a number of factors, the best that we have been able to determine.

It is primarily due to the lack of sufficient capability and capacity of the DBE industry in North Carolina to adequately handle the increased volume of construction work resulting from the increased size in our State's Federal Aid Highway Construction Program that came about with the nickel a gallon with the 1982 act. Our department's recent survey of the DBE firms' own estimates of their capacity indicates they can optimistically handle approximately $23.3 million per year in highway construction work, this, of course, being far less than the $38 million which would be required by the 10-percent goal.

To try to improve this situation, our department is developing a new special program, which has been underway in the development phase for about 4 months, which has become known as Operation Bridge, which is designed specifically to assist new and existing DBE firms to overcome those barriers that presently limit their capacity. This will be in addition to our regular ongoing programs to assist DBE firms and is designed to develop prime firms, MBE firms in our State.

We are greatly concerned that the increased volume of highway construction work which will be specified during fiscal year 1985-86 for accomplishment by DBE firms will increase the potential for the undesirable development of front, fraud, or sham DBE firms. This cannot be tolerated by our department. And we assure you that we will take actions as necessary to assure that highway construction work in our State is performed by legitimate DBE firms.

We firmly believe many of the problems we have encountered with our DBE program have arisen from the fact that at least 10 percent participation is mandated by section 105(f). With the increased size of the Federal Aid Highway Program, this requirement definitely exceeds the capacity of the minority firms in North Carolina to perform the work.

In North Carolina we urge Congress to give careful consideration to revising the language of section 105(f) to allow the States, in cooperation, close cooperation with the Federal Highway Administration, to establish annual goals based upon a careful assessment of the legitimate capability and capacity of the industry in each State. We believe that the intent of the program is certainly honorable, but the unrealistic goal is creating a climate which is not conducive in our State to realizing the intended results of the program. It is showing that it is not good for the majority or minority segments of the contracting industry and is not good for our State and the taxpayer.

In closing the written portion of the testimony, I again express our appreciation for the opportunity to share our concerns with you. And at this point I will answer any questions.

Mr. Wilkerson has been responsible for the development of the Operation Bridge, for which we are proud. Although we have not yet implemented it, we have made quite a bit of progress in that area. And this will overcome many of the barriers that DBE's are presently encountering.

[Mr. Wells' prepared statement follows:]

PREPARED STATEMENT OF GEORGE E. WELLS, STATE HIGHWAY ADMINISTRATOR, NORTH CAROLINA DEPARTMENT OF TRANSPORTATION

Mr. Chairman and Members of the Committee. My name is George E. Wells. I am State Highway Administrator for the North Carolina Department of Transportation and am the Administrative Officer for highway matters. I am a Professional Engineer and have been with the Department for more than twenty-six years.

Accompanying me today are:

Mr. Thomas Stith, Special Assistant to the Governor for Minority Affairs

Mr. Sylvania Wilkerson, Assistant Secretary of Transportation for Planning and Programs

Mr. Berry G. Jenkins, Jr., Manager of our Division of Highway's Construction Branch

North Carolina is pleased to respond to your request for testimony on our State's implementation of Section 105(f) of the Surface Transportation Assistance Act of 1982 (P.C. 97-424). You requested our testimony include information on eight (8) specific points. I will first cover these points and then give you some observations arising from our State's experience with the

requirements of Section 105(f). Following this, we will be glad to respond to any questions from you and the Committee.

1. "North Carolina's certification process."

Our Department of Transportation developed its certification process in accordance with 49 CFR, Part 23.51. Our Department utilizes application forms (Minority Business Questionnaire, Schedule A and Schedule B) which are patterned after the format published in the March 31, 1980, Federal Register.

The certification process is initiated when an applicant submits a Minority Business Questionnaire.

Applications for certification are independently reviewed by representatives of 3 work elements prior to approval. They are:

1. Our Department's EEO Section performs the initial review, evaluates the data submitted, and requests appropriate supporting documents as may be necessary. Our EEO Section basically does any required "legwork" during the entire certification process.
2. After our EEO Section has made an initial determination, the application is forwarded to our Assistant Secretary for Planning and Programs for his independent review and recommendation.
3. The application is then forwarded to our Construction Branch staff for final review. This, too, is an independent review and the findings may not necessarily coincide with the conclusions reached by the previous two reviews. Any differences of opinion are resolved at this level and the final decision as to certification is rendered.

The initial determinination of certification will be based on review of application data submitted and telephone interviews. Personal interviews or validations are conducted for all applicants whose operations appear to be marginally eligible prior to making a decision on certification. When out of

state firms are involved, background data is solicited from the certifiying authorities in the applicant's home state prior to making a decision as to certification.

Certifications normally take from 7 to 10 days to be processed through regular channels if adequate documentation is included in the initial submittal. Obviously this time can be reduced if the initial submittal is in order and the application is "walked through" the certification process.

Our certifications are valid for a time period of 1 year. A firm is required to submit an updated Minority Business Questionnaire annually in order to remain eligible for certification renewal. Certification renewals follow the same channels for approval as initial certification requests. Annual validation reviews are conducted on all DBE firms with active contracts/subcontracts to determine their continued eligibility to participate in the program.

Applicants are notified in writing of the Department's decision relative to certification. If certification is denied, the applicant is advised of the right to appeal the decision to the U. S. Department of Transportation.

Our Department has had no complaints registered to date concerning its certification process.

2. "The procedures used by North Carolina to ensure compliance with Section 105(f) regarding DBE participation."

The principal mechanism used by our Department to ensure compliance with Section 105(f) of the STAA is the Project Special Provisions which are included in Federal Aid contracts. These provisions establish the individual contract DBE/WBE goals and require the apparent lowest responsive bidder to submit the committed DBE/WBE participation to the Department within 7 days after bid opening. If the submitted DBE/WBE participation does not meet or exceed the

contract goals, the apparent lowest responsive bidder must submit information to satisfy our Department that sufficient reasonable efforts have been made to meet the contract goals.

During actual construction, if the submitted DBE/WBE subcontractor is unable to perform satisfactorily, the Contractor must take all necessary, reasonable steps to replace the DBE/WBE subcontractor with another DBE/WBE subcontractor.

Failure to comply with the MBE Project Special Provisions may result in the following sanctions against the Prime Contractor:

1. Disqualify the Contractor and any affiliated companies from further bidding for a period of time of no less than one month nor more than twelve months from the date of disqualification as notified by certified mail; and
2. Disqualify the Contractor and any affiliated companies for award of all contracts for which bids have been received and opened.

In addition to contract provisions, our Department keeps the contracting industry informed of MBE program requirements through AGC-DOT Joint Committee Meetings and through monthly meetings conducted for the minority contractors by our Department's EEO Section.

To date our Department has experienced no significant compliance-related problems.

3. "The enforcement mechanisms used by North Carolina to ensure that "Front Companies" do not participate in the program."

Our Department uses a variety of enforcement mechanisms in an attempt to ensure that front companies do not participate in the program. Our screening activities can be divided into two basic areas. The first deals with screening of firms both in the initial certification stage and in a follow-up validation

stage. As a new firm is certified it is evaluated very carefully not only to substantiate that an eligible minority will have at least 51% ownership of the firm, but more importantly that he will have management control of the operations of the firm. This is evaluated based on written information supplied, personal interviews, and in most cases on-site visits to the offices of the firm. In addition, at some time after initial certification, usually at about one year's expiration, and if the firm has obtained some work, a validation review is made on the office and/or project site. This is done to ascertain that the firm is operating as portrayed on the submitted certification schedule. Depending on the findings, our staff will either validate the certification, decertify the firm for not operating as portrayed, or advise the firm that continued certification is contingent upon changes in operations necessary to assure the minority individual is exercising the appropriate role in the operations. This entire process is very judgmental by nature and is one of the most difficult parts of the program to administer, especially where 51%-49% partnership firms are involved. Even if a firm is suspect of not being managed and controlled by the minority partner, being able to document it to the extent that certification is withdrawn is a difficult task.

The second basic area of enforcement involves the actual daily monitoring of MBE work (DBE & WBE) on the projects during the construction phase.

Our Resident Engineers (on-site project administrators) have been provided written instructions requiring them to assure that the MBE firms shown in our executed contracts as participating in the performance of the contract are, in fact, actually performing the subcontracted work. This monitoring will consist of visual observation of company operations, interviews with subcontractor employees to determine who they work for, asking to see pay check stubs, etc., to determine who makes payments to the employees, obtaining copies of equipment

lease agreements if the equipment being used does not appear to belong to the subcontractor of record, etc. When we first began this project monitoring activity, we found in some cases the work supposedly being done by a MBE subcontractor was being performed by a majority subcontractor or in some cases, the prime contractors workforce. Through our constant monitoring effort, we now believe we have virtually eliminated these practices. In many cases the same end results can be achieved within the Federal regulations by the MBE firms "temporarily" hiring another contractor's workforce, leasing his equipment, etc. It is our belief that much of the goal achievement presently being obtained in many States is through concepts such as these which are perfectly legal but actually do little to put experience and funds into the minority community.

4. "The kind of efforts being made by North Carolina to alleviate any barriers that restrict DBE participation in this program."

Our Department has systematically concentrated on eliminating barriers which in any way restrict DBE participation in its Minority Business Enterprise Program.

To effectively counteract the lack of communication between prime contractors and DBE firms, which has been one of the major barriers, our Department planned and established six (6) area workshops. These workshops brought together in each area the prime contractors, minority business enterprises, and our DOT project administrators to discuss mutual problems relating to the program.

Many DBE firms have not been able to obtain work due to their inability to estimate and bid. In order to assist the DBE firms, our Department has obtained the assistance of prime contractors in instructing DBE firms in the fundamentals of estimating and bidding. In addition, a supportive services

consultant has provided similar training to various minority business enterprises.

As many DBE firms do not have the necessary background and experience in plan reading, twelve (12) DBE firms were invited to attend a two (2) day plan-reading workshop sponsored by the AGC at no cost. Our Department has also planned additional plan-reading workshops for DBE firms subsequent to their completion of instruction in estimating and bidding.

Through its MBE supportive services consultant and its own staff, our Department has assisted every MBE firm that requested assistance in developing a financial statement.

The inability of DBE's to secure bonding has always been a major barrier. Currently, our Department does not require that a prime contractor obtain a bond from a subcontractor. Our Department has also assisted DBE firms in obtaining bonding through the SBA Bonding Program (Bond Market) and through a private firm (Archer Bonding and Insurance Company). Our Department strongly believes that development of bonding capability is necessary for any MBE firm to ultimately succeed.

To assure that DBE firms are not hindered by insufficient knowledge of business fundamentals, our Department has developed a program for instructing selected DBE firms in accounting procedures and techniques, business management procedures and techniques, and plan reading, estimating and bidding. This program is accomplished through the efforts of a supportive services consultant experienced in these areas.

Our Department, through its supportive services consultant, also furnishes two rooms at a hotel utilized by the contracting industry at bid letting time for use by minority firms as a headquarters. This provides a single place of

contact for quoting work and operating as a message center. This was set up because many of the MBE firms could not afford to stay at the hotel.

5. "The information management system used by North Carolina for collecting and compiling data on DBE participation under the Act."

Our Department does not have an information management system currently in effect for collecting and compiling data on DBE participation. Our State Information Processing Services Center is in the process of developing appropriate programs for this purpose. Hopefully, the new programs will be implemented in time to accommodate the recordkeeping for Federal FY 1985-86.

Currently, our Department manually maintains the necessary records to effectively monitor the program.

6. "Other problem areas you may have identified that impact on DBE participation and performance in North Carolina."

Other identifiable problem areas that impact on DBE participation in North Carolina are as follows:

A. DBE Lack of Operating Capital

This has resulted in the inability to begin work on projects on time, inadequate workforces, materials procurement problems, and limits the ability to grow and diversify.

B. DBE Inability to Obtain the Required Equipment Necessary to Perform a Contract.

This causes operating inefficiencies and poor production which affects job costs.

C. DBE Lack of Credit Capability

This creates a firm's inability to purchase materials, equipment and make payrolls which may result in loss of subcontracts.

D. DBE Inability to Market Firm

Many DBE firms simply do not know how to sell their firms abilities, experience, etc., to prime contractors. This hurts their ability to obtain work.

E. DBE Inability to Negotiate Contract Prices

This has resulted in DBE firms acceptance of subcontracts at prices which do not allow for reasonable profits, and in some cases, in the inability to obtain a subcontract. The long term effect is a deficit operation and subsequent business failure.

F. DBE inability to secure insurance

Many DBE firms are unwilling or unable to secure proper insurance coverage needed to be a viable highway contractor. This affects their ability to secure and complete work.

G. DBE Inexperience in Subcontract Negotiation

Many DBE firms do not know how to protect themselves by ensuring that proper language is included in subcontracts to address items of payment schedules, retainages, work notices, etc., which ultimately impact on their job costs.

7. "The total dollar amount of the funds appropriated by DOT to North Carolina under the STAA of 1982 for fiscal years 1984 and 1985."

The total amount of federal highway funds apportioned to North Carolina for Federal fiscal years 1984 and 1985 was:

Federal Fiscal Year	Federal Funds
1983-84	$235,822,280
1984-85	$328,883,401

It should be noted the federal obligation ceiling in FY 1983-84 was $233,396,000 and in FY 1984-85 was $243,885,824.

8. "The amount of that total that North Carolina has used to provide contracting opportunities for DBEs for fiscal years 1984 and 1985."

The following is a summary of all federal-aid contracts awarded by our Department during federal fiscal years 1983-84 and 1984-85 and a summary of the DBE commitments/awards and % DBE participation. These data include both the federal funds and the required state matching funds.

FEDERAL-AID CONTRACTS AWARDED

Federal Fiscal Year	Design Branch	R/W Branch	Const. Branch	Totals
1983-84	$ 15,738,627	$ 786,825	$ 269,704,573	$ 286,230,025
1984-85	9,121,740	783,248	211,249,431	221,154,419

DBE COMMITMENTS/AWARDS

Federal Fiscal Year	Design Branch	R/W Branch	Const. Branch	Totals
1983-84	$ 1,580,333	$ 16,100	$ 29,071,172	$ 30,667,605
1984-85	1,099,627	19,075	20,468,041	21,586,743

% DBE PARTICIPATION

Federal Fiscal Year	Total Awards	Total DBE Commitments/Awards	%
1983-84	$ 286,230,025	$ 30,667,605	10.7%
1984-85	221,154,419	21,586,743	9.8%

General Observations:

Our Department has established an overall program goal for FY 1985-86 of 10% DBE and 1% WBE participation in our federal-aid highway program. In establishing these overall goals for federal FY 1985-86, we honestly feel our Department may not be able to achieve the DBE goal due to our increased federal-aid highway construction program exceeding the capacity/capability of the DBE industry. During federal FY 1985-86, our Department has programmed the award of more than $380 million in federal-aid highway construction contracts. A 10% DBE goal will result in at least $38 million specified to be accomplished by DBE firms. Based on our experience and our recent assessment of the capacity/capability of the DBE industry, achievement of the 10% DBE goal during FY 1985-86 will be most difficult. We, however, will exert our best efforts to achieve the 10% DBE goal during federal FY 1985-86.

North Carolina has few DBE prime contractors. Only two DBE firms have been prime contractors on highway contracts awarded by our Department since 1980. DBE goals on our federal-aid highway construction contracts must be substantially achieved through subcontracts between the prime contractor and DBE firms. Our highway construction contracts normally allow 12 to 36 months (dependent upon size and complexity of the highway project) for the prime contractor to complete the highway construction work. Actual achievement of the DBE contract goal occurs throughout the contract period based on the items of work subcontracted by the prime contractor. For example, actual achievement of the DBE goals for highway construction contracts awarded in FY 1984-85 will occur during 1985, 1986, and 1987. It is conservatively estimated that 40% of the work to be accomplished by DBE firms on federal-aid highway construction contracts awarded during FY 1984-85 will not be accomplished during FY 1984-85.

Our Department's experience may be summarized as follows:

Federal Fiscal Year	Total Amount of Federal-aid Contract Awards	DBE Goal	Amount of DBE Contracting	# of DBE Subcontract Defaults
1982-83	$143.5 million	6.4%	$ 9.2 million	5
1983-84	$286.2 million	10.7%	$30.7 million	19
1984-85	$221.2 million	9.8%	$21.6 million	42

As noted in the data shown above, there is a drastically increasing number of defaults by DBE firms on highway construction subcontracts. This increase in defaults is due to a number of factors. Our staff's analysis concluded it is primarily due to the lack of sufficient capability/capacity of the DBE industry to adequately handle the increased volume of highway construction work resulting from the increased size of the state's federal-aid highway construction program. Our Department's recent survey of the DBE firms' own estimate of their capacity indicates they can optimistically handle approximately $23.3 million per year in highway construction work, far less than the $38 million required by the 10% goal.

To try to improve this situation, our Department is developing a new special program - known as "Operation Bridge" - which is designed to assist new and existing DBE firms to overcome those barriers that presently limit their capacity. This new program will be in addition to our regular on-going programs to assist DBE/WBE firms.

We are concerned the greatly increased volume of highway construction work which will be specified during FY 1985-86 for accomplishment by DBE firms will increase the potential for, or foster, the undesirable development of front,

fraud, or sham DBE firms. This cannot be tolerated by our Department and we will take such actions as are necessary to assure highway construction work is performed by legitimate DBE firms.

We firmly believe many of the problems we have encountered with our DBE program have arisen from the "at least 10%" participation mandated by Section 105(f). With the increased size of the federal-aid highway program, this requirement definitely exceeds the capacity of our DBE industry. We urge Congress to give careful consideration to revising the language of Section 105(f) to allow all States, in cooperation with the Federal Highway Administration, to establish annual DBE goals based upon a careful assessment of legitimate capability and capacity of the DBE industry in that State. We believe the intent of the program is honorable, but the unrealistic goal is creating a climate which is not conducive to realizing the intended results of the program, not good for the majority or minority segments of the contracting industry, and not good for the states and their taxpaying citizens.

In closing, we again express our appreciation for the opportunity to discuss with your Committee North Carolina's implementation of Section 105(f) of the Surface Transportation Assistance Act of 1982. We will be happy to provide additional information and respond to any questions.

Mr. MITCHELL. Thank you.

I will ask Congressman Hayes to lead off with questions. And I have some, also.

Mr. HAYES. Thank you, Mr. Chairman. Just so I will get my arithmetic right, what is the minority percentage of the population in the State of North Carolina roughly?

Mr. WELLS. Twenty-one. About 21 percent.

You gentlemen correct me if I give an incorrect fact.

Mr. HAYES. You mentioned about the use of an operation bridge, I think, that's what you call it?

Mr. WELLS. Yes, sir.

Mr. HAYES. Will this program eliminate the disadvantaged business enterprise problems that you mentioned?

Mr. WELLS. We feel that it will make——

Mr. HAYES. In such areas as insurance——

Mr. WELLS. Bonding.

Mr. HAYES [continuing]. Bonding, inability to negotiate contracts and prices?

Mr. WELLS. Yes, sir; it is directed toward that.

Mr. Chairman, with your permission, I would like Mr. Syl Wilkerson to elaborate on that, since he has been the prime mover in our State.

Mr. WILKERSON. I believe that it will.

Mr. HAYES. Will you pull the mike around, please.

Mr. WILKERSON. The main purpose of this program is to eliminate these barriers that we just pointed out here.

In coming on with the department in January, the same questions that the chairman directed to us was directed to me by the Governor to find out what was the real problem in that we had such a small percentage of minority participation in the Highway Program. And I took several months in going out to assess this.

And one of the things that I think that we have to look at in North Carolina is that historically, the highway building has been in the majority contracting segment. Although we have had many minorities as part of the highway building industry, they were either laborers or just working with the majority segment.

There are many minorities in the State of North Carolina who understand and can do highway building, but they do not understand the process when you get into bonding, insurance, and the business world.

So this is one of the major problems that we have in that we do not have any prime construction companies in North Carolina that are owned by minorities. We have had two companies since 1980 to bid on prime contracts, but they were small contracts. Most of our contracts in North Carolina where the money is made is in the prime, is in the prime sector, not in the subcontract work. And with the increase in the Federal funds that is going to be utilized in North Carolina, we are getting into bridge replacement, we are getting into the interstate highway, this exceeds the capability of the current DBE firms in North Carolina.

So what Operation Bridge is to do is to take those people who have been in the highway building industry over the past 10, 15, 20 years. See, we have people with that kind of experience, they just do not have the business knowledge. Put those people together with

the supportive service people. And it is my goal within the department of transportation, as requested by the Governor, that we develop some prime construction companies in North Carolina, because we do have the personnel there with some experience to build the roads. We just have to get these people together to eliminate these barriers that we see.

And about the 10-percent program, we have, in fact, out of the industry, we have people that are attacking the problem in that they are seeing that we have 10 percent that is set aside for special interests and so forth, so most people are attacking this rather than looking at the spirit of the program and getting with the spirit.

So what we are trying to do here with Operation Bridge is to create or develop some prime construction companies. And we believe that this in itself will exceed the 10 percent of the Federal highway funds that are coming into North Carolina, because we have some prime construction projects. We have one bridge there for $25 million alone. You know, this is just the nature of the prime construction contracts that we have.

And if we had two prime construction companies that were working as primes in North Carolina, they would exceed the 10 percent.

That is why I am optimistically saying we can, we can go ahead with the 10 percent, project this. If things go well with Operation Bridge, then we should exceed the 10 percent. Otherwise, we will have to turn to some other method of trying to meet that goal of 10 percent. Because we just do not have the capability within the DBE industry as evaluated right now in North Carolina.

Mr. WELLS. Congressman, one closing comment in response on that. Our department did recently, in the last couple of months, take the initiative and contacted major lending institutions, major bonding companies, in developing support for assistance in this program, and did achieve that. So that we are making progress toward removing some of these barriers that will enable the development of prime minority contractors in the State.

Mr. HAYES. I understood you, Mr. Wilkerson, I believe, to say that—and this just mystifies me a little bit—a person who has been in business for 15 years, yet they do not have any business knowledge. How can they stay in business that long and do not have any business knowledge?

Mr. WILKERSON. No, sir; they have been a part of the construction industry in that they worked for the majority firms as laborers or they were operators of equipment and stuff like that. They did not own their business. They only got involved in the business as operators and became certified DBE firms, the majority of these firms, after the Surface Transportation Act of 1982. This is when that list grew from a few numbers to almost 200 people, 200 firms.

But I, in getting aboard with DOT, went out to try to find these firms. And many of the firms are not even operable right now. And the majority of them do not even come in to bid on contracts.

Now, my question was why weren't they participating in the program? And really, it is because some of the people who are certified as DBE firms—and we plan to start to eliminate that group—is they do not even exist right now. I had Mr. Jenkins here to conduct a survey to find out from each one of these firms exactly what

type of work we could expect for them, say, this coming fiscal year. That is where we came up with the projected $23 million worth of work that they could do.

In contacting all the firms we were surprised that we did get almost 80 percent participation in this survey. And this is what they actually came up with.

Mr. HAYES. I guess it is correct for me to conclude then without the Surface Transportation Act, these people, instead of being in business, would have still been laborers and things of this sort within the highway department; is that right?

Mr. WILKERSON. Well, I think that we could assume this, that many of these would not have come forward if they would not have something to suggest that they get out on their own.

Mr. WELLS. May I comment, sir?

Mr. HAYES. Yes.

Mr. WELLS. The DBE program or the minority program in North Carolina prior to the 1982 act was running about 3.5 percent. And based on the responses from the survey that was done, it does appear that 5- to 5.5-percent capacity is there now. So certainly the impetus that has been provided by the act has contributed to that. But we had an active program ongoing prior to that time, also.

Mr. HAYES. Let me ask just one final concluding question, Mr. Chairman.

You, Mr. Wells, I think, in your statement it says quite clearly you:

> urge Congress to give careful consideration to revising the language of section 105(f) to allow all States, in cooperation with the Federal Highway Administration, to establish annual DBE goals based upon a careful assessment of legitimate capability of the DBE industry in that State. We believe the intent of the program is honorable, but the unrealistic goal is creating a climate which is not conducive to realizing the intended results of the program, not good for the majority or minority segments of the contracting industry, and not good for the States and their taxpaying citizens.

Are you saying, in summation, I just want to be clear, that the 10-percent set-aside goal is unrealistic?

Mr. WELLS. In North Carolina, yes, sir; we believe that it is.

Mr. HAYES. Thank you.

Thank you, Mr. Chairman.

Mr. MITCHELL. For many, many years I looked on North Carolina as the most progressive of our Southern States. I am not at all sure that it still is now. But certainly it was in the forefront for many years when it began tackling racial discrimination.

I have been in Congress 15 years. And I have frequently been in North Carolina. And in many meetings I have always praised the minority business experience in North Carolina. I commented to people in my own State of Maryland how impressed I was with the sagacity, the acumen of minority black businessmen in North Carolina.

Evidently I was wrong, because according to your testimony it is a mess; they do not know anything, do not want to learn anything, are not capable of doing anything; a little bunch of school children that we have got to take by the hand and lead them into businesses. That is the impression that I get from your testimony. And I

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am sorry to hear that. I, based on my own personal experiences with businesses in North Carolina, did not get that impression.

Now, is it your understanding that in implementing section 105(f), that it does not necessarily have to be limited to just contractors? Any phase of business that relates to the Surface Transportation Act can be utilized; is that correct?

Mr. WELLS. Yes, sir; that is correct.

Mr. MITCHELL. Other than contractors where do you use it?

Mr. WELLS. In the preconstruction phase, which is plan development phase, surveys, et cetera, in the development of plans we are using minority firms. In the right-of-way phase, where we use private assistance, outside assistance from the department in the development of appraisals we are using minority firms.

Mr. MITCHELL. Using any minority attorneys? Easement rights and so forth?

Mr. WELLS. I am sorry, sir, I cannot—I do not believe so, but I stand to be corrected on that.

Mr. MITCHELL. In your own opinion, have you made a maximum effort to reach out and give opportunities, not just in construction, but across-the-board, to any phase of business related to surface transportation? Do you believe that you have made the maximum effort?

Mr. WELLS. I, personally, am probably never satisfied that when we are working towaru something that I believe in and our people believe in, such as fairness to all people, that we have not made the maximum effort that should be made. I do feel satisfied at this point with the efforts that we have made in the department. However, there can certainly be room for increased efforts. And we are doing that.

Mr. MITCHELL. Well, if you did that, then you could possibly meet your 10-percent goal, if you maximized your effort.

Mr. WELLS. I believe, Mr. Chairman, that the meeting of the goal has got to be related to the capabilities of the firms that are there right now. I do believe in a period of time that we will be there.

Mr. MITCHELL. No; you misunderstand me. I am not talking just about actual contractors, which is what you were focusing in on. I am talking about all of those ancillary supportive services in which you can utilize minority firms.

For example, if you do printing, if you put out some massive printing you can use a minority printing firm. Have you ever done that? I would assume not, based on your testimony, which says that all of them are incapable, insufficient, have no knowledge, cannot read plans, cannot do anything except exist at perhaps some sort of subhuman economic level.

You have done a study on the capability of the firms, right? Who did the study? You did a study that determined 6.3 percent DBE participation could be achieved. Who did that study?

Mr. JENKINS. Yes, sir; we did a study.

Mr. WELLS. We did the study. It was initiated through the department. It was accomplished by our construction branch, Mr. Jenkins, under his supervision.

Mr. MITCHELL. You did it?

Mr. JENKINS. Yes.

Let me clarify a couple of things.

Mr. MITCHELL. No, no; just let me finish making my point.

Mr. JENKINS. OK.

Mr. MITCHELL. Let me just pursue this. And then you can come back and clarify.

You supervised the study?

Mr. JENKINS. That is correct.

Mr. MITCHELL. All right. What criteria did you use to determine the capability of each DBE firm?

Mr. JENKINS. We sent out a questionnaire to all minority firms, being both DBE and WBE, that were certified on our list—and there was approximately 300, a little less than 300—asking them to give us some basic information about their company, the volume of work they do totally, the volume of work they do with the highway industry, the volume of work that they would expect to do in our program in the upcoming next 2 fiscal years, and so forth. And we accumulated that information.

If they did not plan to do any work in the next year or two in our program, we asked them to advise us of that.

This was mailed out to in-State, out-of-State firms, everybody that was on our list, suppliers as well as contractors.

Mr. MITCHELL. Is it possible for me to take a look at that study? Could you give me a copy?

Mr. JENKINS. Certainly. But I thought we had possibly given Ms. Bryant a copy of it. Maybe I am wrong.

Mr. MITCHELL. In that study do you specify your criteria that were used? If not, I would like to see a set of the criteria that you used for evaluation.

Mr. JENKINS. I would be glad to give you today a copy of the questionnaire and the transmittal letter that was sent out with it.

Mr. MITCHELL. Well, the questionnaire might not be synonymous with the criteria.

Mr. JENKINS. Oh, it would tell you what we asked for and that much.

Mr. MITCHELL. Yes; but I have done thousands of questionnaires. I am an old sociologist. And I know that you send out a questionnaire and then you establish a set of criteria that you weigh the questionnaire against. And that is what I want to know; what were the criteria used?

Mr. WELLS. Berry, would you explain to the chairman what the actual results were and then the reviews that were made internally to arrive at the——

Mr. MITCHELL. I would be glad to hear that. But I am trying to hone in on just one thing: What were the criteria used? That is all I want to know.

Mr. JENKINS. All right. The criteria, the bottom line of it was what volume of highway construction work could we expect that firm to participate in in North Carolina in the current fiscal year and the next fiscal year. That is the bottom line of it.

Mr. MITCHELL. Will you send me the study and the criteria, please?

Mr. JENKINS. Yes, sir.

Mr. MITCHELL. I guess I am a little concerned because so much of what you have said today is almost a complete echoing of the Asso-

ciated General Contractor's line. It concerns me that even the language is so similar. I guess that is just a part of my paranoia.

AGC has been real good helping the minority firms out, having sessions and stuff. AGC sponsored the 2-day forum, or whatever it was, for plan reading?

Mr. JENKINS. The plan reading course was something the AGC put on their members, and they volunteered to make some spaces available to DBE firms that we selected, at no cost to these firms. There was a charge to their members for the forum.

Mr. MITCHELL. That is very good.

How many DBE firms participated?

Mr. JENKINS. A total of 12.

They put the program on every 2 years. And there is approximately 40 slots.

Mr. MITCHELL. Twelve.

Mr. JENKINS. There is one coming up next year.

Mr. MITCHELL. Twelve out of forty possible slots.

Mr. JENKINS. There were two sessions. Six per session; 40, 40 available, or 80; 12 out of 80.

Mr. MITCHELL. Twelve out of eighty.

Mr. JENKINS. Roughly. I do not know the exact number.

Mr. MITCHELL. Is that pretty good participation? No. No, it is not.

Mr. JENKINS. I think when it cuts out their members. They have to turn down people of their own members that want to participate. I think it was a pretty good effort on their part.

Mr. MITCHELL. I see.

Mr. JENKINS. Could I respond to a comment you had made earlier?

Mr. MITCHELL. Yes; just after I make one more comment on this.

Mr. JENKINS. OK. Excuse me.

Mr. MITCHELL. I suppose though, really, the lack of interest in this workshop is reflective of the indolent, slothful, sloppy kind of MBE firms that you have in North Carolina. That may well be.

Yes, you wanted to make a statement?

Mr. JENKINS. Yes, sir; going back to your comment about your judgment of the contracting ability in North Carolina, I think we agree with you. But I think if you look at the nature of most of those firms, they are in the building industry. They are vertical construction firms.

And we have, for numbers of years, solicited many of these firms to be involved in our highway program. They are in building industry and utility, water and sewer construction. But because of the large private market they have available to them and the EPA program they have available to them and the risk in highway construction because of climatic conditions, we are very, very unsuccessful in getting them to participate. And another reason is pure out and out bureaucratic redtape.

Mr. MITCHELL. Ah.

Mr. JENKINS. And we have been to many of these firms asking for their participation in our program and they are just not interested.

Mr. MITCHELL. That puts another little light on it then, doesn't it?

Mr. JENKINS. Well, I am saying that is part, part of the problem. We would love to have them in our program.

Mr. MITCHELL. If part of it is bureaucratic redtape, that is the first time I have heard that mentioned. I have heard all the negatives about your firms.

Mr. JENKINS. Just the Davis-Bacon Act, the payroll requirements, recordkeeping requirements, and so forth.

Mr. MITCHELL. Let me, Mr. Wells, in your statement early on you indicated in North Carolina—this is page 6. No; somewhere in your statement you said North Carolina has not experienced significant compliance problems relating to goals. Did you, on page 4, make that statement?

Mr. WELLS. Significant complaints.

Mr. MITCHELL. Yes.

Mr. WELLS. Compliance related problems. Yes, sir.

Mr. MITCHELL. But now you are saying simply because the volume of dollars coming into the State has increased you anticipate these dire circumstances that will prevent you from meeting your goals? You know, I am trying to figure this out. If at one point in time you were able to brag that North Carolina had not experienced any significant problems in compliance and then a couple of years later you are saying, it is getting terrible. I do not understand it.

Mr. WELLS. OK. Yes; let me elaborate on it a little bit, sir.

We have been very much concerned with what is currently being experienced in our minority contracting industry in the number of defaults. There, they have actually taken on much more work than they can perform at the time of award. That is when the goal, of course, as you know, is set. The time of award or actual performance is where contractors currently are in trouble.

Mr. MITCHELL. Those figures are disturbing to me, too.

Who determines the default?

Mr. WELLS. That is determined by our construction branch on an appeal from the prime contractor.

Mr. MITCHELL. Oh, it seems to be the prime that initiates that, doesn't it?

Mr. JENKINS. The prime contractor would initiate the request for either to have his goal waived or to replace the firm that failed to perform. We, in every instance, contact the minority firm, DBE or WBE, involved and get his side of it and find out does he, indeed, have a problem in performance? Is he the initiator? And in many of the cases the reason for replacement efforts is strictly that the minority says, I cannot do it on a schedule in order to get the project done on time.

Mr. MITCHELL. That is very interesting. Because I have had the experience in testimony before this committee where primes, who do not like the program anyway, do not want to use minorities, will come in and lie. And in some States they willingly go along with the lie saying a default has taken place. This gives justification then for not including minorities.

But you have not had that experience in North Carolina?

Mr. JENKINS. I am saying that every time we have a requested default we check with the DBE firm to hear both sides of the issue

and then make a judgment. Some cases we have allowed and some cases we have not.

Mr. WELLS. We definitely do not just accept the prime's plea without checking into it thoroughly.

Mr. MITCHELL. OK.

Mr. WELLS. And even then, requiring that the prime replace this DBE with another DBE.

Mr. MITCHELL. OK.

Mr. WELLS. If one is available.

Mr. MITCHELL. All right. I have just one or two other questions I want to ask you. On page 6.

I am pretty good. I am pretty sharp. Even though when I first came to Congress, all kinds of questions were raised since I was the first black Congressman from Maryland. Does he have the ability to legislate? Does he have the ability to think? Does he have the ability to read law? Not only do I have the ability, I exceed the normal capacity of most Members of Congress.

Yet, I am not clairvoyant. And on page 6 in your statement you say:

> It is our belief that much of the goal achievement presently being obtained in many States is through concepts such as these which are perfectly legal but—do little to put experience and funds into the minority (business) community.

On what do you base that belief? Did you do a study of the other States?

Mr. WELLS. Go ahead.

Mr. MITCHELL. It was his statement.

Mr. WELLS. That is right. The statement is based on the reviewing with the staff that has administered the program in North Carolina and has been in virtually constant contact on this issue with sister States and which Mr. Jenkins had the responsibility for over 10 years.

Mr. MITCHELL. You were in contact with Idaho, that has met its goal, despite its small percentage? Were you in contact with New Hampshire where there is a 2-percent black population and they are meeting 14 percent of the goal?

Mr. JENKINS. Congressman, AASHTO, which I am sure you are familiar with, has a subcommittee for construction. We have a monthly meeting—excuse me, a yearly meeting. There was a meeting held in July this year in Michigan. There were 36 States represented. I chaired the portion of the program dealing with the DBE Program. And one of the items we discussed, myself and my counterparts, was the DBE Program and the problems associated with it.

And it was the general feeling as discussed in that meeting that a whole lot of the goal achievements that have been achieved in the States have been achieved through the 51/49 percent partnership firms. And to further amplify, in our State we went back and determined that there, we have 11 firms in our State that were certified after the enactment of this legislation. They are 51/49 percent firms. And to be very honest, they are very marginal. But they were new firms that said they were going to operate with a minority in operational control.

Those firms—now, we have decertified two of them already and we are in the process of looking at the rest of them—represent approximately one-half the past 2 fiscal years' achievements in our State.

After we get them off the list, as we can prove it, I think, we have lost that much capacity in our State. And I think you are going to find, based on my personal feelings, and I cannot—did not do a survey, that much of that exists in other States. Maybe some other States are not looking too closely at it.

Mr. MITCHELL. My personal feeling is that I do not think I should ask you any more questions. I think you have demonstrated a negative mindset toward this program.

I think that is true in any activity, you can come up with a rationale to justify your negative mindset. I assume that you will be coming and asking for a waiver and given the political climate in your State now, which I considered at one time to be a very progressive State, I imagine the Governor will come in and ask for it. So why should I bother?

I think you stand in sharp contradistinction to our first witness who showed a gut willingness to try to make it work, instead of hammering away at all the shortfalls.

So I have no further questions to ask you. You keep your negative mindset and you keep us from developing as entrepreneurs. And maybe that is the goal that is desirable for some.

Thank you for being here.

Mr. HAYES. Could I, Mr. Chairman, raise one question for Mr. Wilkerson. If you know it, what is the percentage of unemployment among minorities in the State of North Carolina?

Mr. WILKERSON. Right now it is somewhere in the area of 15 percent.

Mr. HAYES. I assume that you are conscious of the fact that one of the chief sources of employment is small business. That is particularly true in other States. I am sure it is the same thing true in North Carolina, right?

Mr. WILKERSON. Yes, sir.

Mr. HAYES. I am just really disturbed about the, as the chairman has expressed, the attitude. And am I being presumptive when I say that you are not for the reauthorization of the program? Is that right?

Mr. WILKERSON. Well, again, I have to agree with our highway commissioner, Mr. Wells here, in that we are talking about, I am specifically talking about North Carolina in that I went out and tried to get with the DBE industry as far as highway construction. And in that area I think that the capability right now, just for highway construction, and that was the area that I surveyed, it was in highway construction. I did not really get into all of the other areas, although I was aware that this would be considered as part of the 10 percent for reaching our 10-percent goal, but I only went with the people who were certified to work in the highway industry in North Carolina. And in assessing that and trying to come up to that $38 million that we would be required to meet, it was not there, the capability was not there.

So my approach then is to develop another method of trying to get a fuller participation out of the minority segment and develop

the people who have been in the industry for these years that I spoke of before. And we do have the potential. It is just that when we start to evaluate the capability of the firms that are presently operating in North Carolina, the capability is not there. This has nothing to do with the potential.

If we can develop the potential that is there in North Carolina, I see no reason why we cannot exceed the 10 percent. And that is my objective, to get as many minority firms participating in the highway building industry as possible and get them to the point of being able to operate as prime construction companies.

Mr. MITCHELL. Will you yield to me for a moment, Mr. Hayes?

Mr. HAYES. Be glad to yield my time.

Mr. MITCHELL. I do not share your optimism. With that kind of negative mindset that has been evidenced in the testimony this morning you will never do it. I wish I could share your optimism, but I do not.

Thank you for yielding.

Mr. HAYES. Mr. Chairman, I have no further comments or questions.

Mr. MITCHELL. Thank you very much, gentlemen.

Mr. WELLS. Yes, sir; thank you.

Mr. MITCHELL. Our next witnesses are from the Pennsylvania Department of Transportation: Mr. Howard Yerusalim, the deputy secretary for administration; Mr. Bruce Doman, the inspector general; Dr. Joseph Golden, Jr., the director of the bureau of equal opportunity.

Thank you very much for being here, gentlemen. We have a copy of your testimony. Thank you for getting your testimony in in a timely fashion. It permitted us to read it, which does not happen very often.

Therefore, I would ask, if at all possible, that you simply give the most important points in your testimony rather than reading it in its entirety.

The entire prepared statement will appear in the printed record.

TESTIMONY OF HOWARD YERUSALIM, DEPUTY SECRETARY FOR ADMINISTRATION, PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, ACCOMPANIED BY BRUCE K. DOMAN, INSPECTOR GENERAL, AND JOSEPH W. GOLDEN, JR., DIRECTOR, BUREAU OF EQUAL OPPORTUNITY

Mr. YERUSALIM. Mr. Chairman, I will not read the statement as presented to you.

I do want to say that Mrs. Bryant visited our State. And somehow, by coincidence, she picked about the best day of the month that she could pick, because on the day she visited our State we had a certification appeals committee hearing and we also had a good faith effort review committee to review projects where contractors were not able to meet their goals. So she was there first hand and saw how we operate. And we were very pleased with that effort.

Mr. MITCHELL. And, indeed, she did tell me about her experience in the visit. And I guess I would be wrong if I did not tell you that based on her reporting to me it is clear that you are making an all-

out effort. You have got problems and you are addressing them. And that is all that I could ask of any State, that at least you make the effort.

Mr. YERUSALIM. Thank you, Mr. Chairman.

Mr. MITCHELL. So, now of course I have not heard all your testimony yet. But that was the impression that I had.

Mr. YERUSALIM. Thank you, Mr. Chairman and Congressman Hayes. As I said, I will not read our prepared testimony. I will try and stick to the eight particular areas that you asked us to discuss in our testimony.

I also want to introduce, to my left, Mr. Bruce Doman, who is the inspector general for the Pennsylvania Department of Transportation.

Mr. MITCHELL. Haven't we met before?

Mr. DOMAN. I think we may have met at a conference.

Mr. MITCHELL. Yes; your face looks very familiar.

Mr. YERUSALIM. That is a first for any governmental agency in Pennsylvania, by the way. And his job is to prevent crime, fraud, and abuse. And he has done quite a job at reducing that or eliminating it to a great extent.

And to my right is Joseph Golden, who is the director of our bureau of equal employment opportunity, who has the prime responsibility for this program.

But I have lived with this program since I became deputy secretary in April of 1983, which is very shortly after the law was passed.

I will start off with your first item, which is Pennsylvania's certification process. Firms which seek certification fill out an application which is very comprehensive. They have to identify their background, the ownership of the company, general details of the company, an audited financial statement, prior tax returns, resumes of the principals, corporate bylaws, and any third-party agreements that exist within the company.

When that certification request comes into the department it is reviewed both by Mr. Golden and by Mr. Doman. Only after both of them have reviewed it do we send a DBE investigator out to visit the firm.

And we found that that is a key to evaluating the viability of firms that submit applications. You can put anything down on paper, but it is quite interesting when you go out and visit.

And kind of as a light comment, when you see a person who looks like me and a person who looks like Joe and we own a company jointly and Joe owns 75 percent of the firm, and when the investigators start asking questions Joe is told, well, you go get us some coffee, Joe, and the person who looks like me answers all the questions, that kind of tells us something about that company right away.

Mr. MITCHELL. I think that would be a highly suspect situation.

Mr. YERUSALIM. Right. To say the least. And that has occurred quite often, believe it or not.

Mr. MITCHELL. Sure.

Mr. YERUSALIM. We do not just certify firms so that we can meet goals. We try to be very, very careful in our certification.

After the investigator makes their recommendation, it comes in to Mr. Doman. And he reviews each and every recommendation personally. And he recommends denial or certification. If Mr. Doman recommends certification the firm is certified. If he recommends denial, we do have a certification appeals committee that I chair. Mr. Doman presents his case. The firm is called in to present their case. And then we have five voting members who vote on the issue. So the firm has a second chance.

I would say that in about 15 percent of the cases the firm does wind up being certified at the appeals committee. In most cases, though, they have made changes from the initial application to the time they come before the committee. Mr. Doman does do quite a thorough job.

And, of course, the third avenue of appeal is the U.S. Department of Transportation.

I am kind of proud to say that Penndot has not once been overturned by the U.S. DOT on any firm that we denied certification.

The second item is procedures to ensure compliance with section 105(f).

Let me say that in Pennsylvania we do not have quotas. We look at each and every job, the type items that are included in that project, the locality of the State where that project is going to be built, the number of DBE's who are certified who have indicated that they will work in that portion of the State, and the amount of work that they are able to do. And that is how we set goals.

And there have been cases in Philadelphia and Pittsburgh where goals have been as high as 20 percent for DBE's, plus goals for WBE's.

Mr. MITCHELL. It may be very low in Scranton.

Mr. YERUSALIM. Well, it may be very low. It is not as bad in Scranton. But we have some very, very rural areas in Pennsylvania. Tioga County happens to be one where——

Mr. MITCHELL. Yes.

Mr. YERUSALIM [continuing]. There are more deer and antelope than there are people. And it is kind of hard to get the DBE's to go up there, even for the project. So we might have lesser goals in such areas of the State.

Mr. MITCHELL. I am not going to interrupt you again, but what you are saying makes sense. It just makes sense. Obviously, you get a situation in the hinterlands where you are not going to get much minority participation. But that is made up for where you have concentrations of minority businesses. That is a logical, sensible way to approach this thing.

And I am not going to praise you anymore, yet. But it just stands in such sharp contrast with the testimony we received just a few minutes ago.

Please proceed. I promise no more interruptions.

Mr. YERUSALIM. Well, Mr. Chairman, interrupt as often as you like.

We do some other things that we do to try and help the minorities. One of the problems with the minority firms is cash flow. As a result, we have included in our specifications a special provision for mobilization for disadvantaged business enterprises.

And in our prepared statement which you have, attachment 1 lists that mobilization specification. It is toward the back after you get through all of these written materials.

Mr. MITCHELL. I have it. Mobilization, section 608.

Mr. YERUSALIM. Right. You will see that we allow payment to disadvantaged business enterprises of 25 percent of an identified mobilization amount before they even start their work so that we can give them some cash up front to start the project. We also give them further amounts of mobilization money as they complete 25, 50, and 75 percent of their work, all in an attempt to help them with their cash flow.

We also hold prebid meetings at which the prime contractors attend, and also the subcontractors, the disadvantaged business enterprises, whether they be prime or subcontractors.

We have supportive services contractors throughout the State. We have contractors who work out of Pittsburgh, out of Philadelphia, and out of Harrisburg, who are responsible for the western, central, and the eastern parts of the State.

We have also been very successful in increasing the number of certified firms. When I first took over this position I was told it was impossible to meet the 10-percent goal. We had a directory of disadvantaged and women's business enterprises that consisted of 125 firms. I am glad to report that our current directory has 800 firms.

We have worked very, very hard to go out into the hinterlands and find the firms and help them through our supportive services contractors. And let me say our prime contractors have gone out of their way to help these firms, also. So it has been a joint effort.

We have held seminars around the State with the disadvantaged business enterprises. We have also held seminars with the prime contractors. We have met with the minority contracting associations and also the nonminority contracting associations.

Later today you will probably hear from the Honorable Gordon Linton, State representative from Pennsylvania. He has been one of the best friends to me and this program. We have worked very closely together. And he was the prime sponsor of a bill that I call the fraud bill. And I think he will be talking more about that later. But it is a felony punishable by up to 7 years to misrepresent yourself either in the certification process or in any way in this Disadvantaged Business Enterprise Program. If you lie in your certification request you are subject to the provisions of that bill.

We also have a good faith effort review committee that meets only on projects where the prime contractor cannot meet the goals that were set for the project. We are not very easy. Mrs. Bryant sat in on that meeting. I believe in that meeting we did approve one firm that did not meet the goals. And we felt that it made sense in that case. But our specifications that go along with attachment 1 are very, very firm in what we accept as a good faith effort.

We have been to court about five times on this issue where we rejected a low bid. I am happy to say that we won four of those cases. We lost one of those cases. And after we lost that we tightened up our specifications because of what the judge said, the reason that he ruled against us.

The reason he ruled against us was that we did not say that you had to make personal contact with DBE's to say that you had made

a good faith effort. Firms were sending out lots and lots of computerized lists of letters. And that is not a way to make a good faith effort. Our specs were changed, and that is not occurring anymore. In fact, on almost all our jobs the goals are being met up front.

Another thing that we have is the DBE advisory committee. It consists of minorities, nonminorities, contractors that are both minorities and nonminorities. Consultant engineers, which is an area that you do not hear much about.

We are proud to say that 17 percent of our Federal aid contract money for engineering consultants goes to disadvantaged business enterprises, which is a part of our overall goal.

The last thing that I wanted to mention is that we very carefully monitor the actual dollars that are paid to DBE's. It is one thing to submit a document to us at the initiation of a project saying that you are going to meet 12 percent even though the goal is 10 percent, or 15 percent, or 8 percent, whatever the goal is, name the firms and what work they are going to do. But it is very important that the project personnel who work for us to inspect these projects very carefully monitor the situations to ensure that the minorities perform the work, that the work is not performed by a prime contractor or other subcontractors with money just being passed through the disadvantaged business enterprises.

The third item was the enforcement mechanism. Well, we think the most important enforcement mechanism of all is education. We have supportive services contractors, as I mentioned. They help our disadvantaged business enterprises thoughout the State. They educate them in the program.

Our inspector general has held meetings in each of our engineering districts—we have 11 engineering districts—to tell them what to look for, what activities are legal, what activities are questionable that might go on in construction. So we very closely monitor what goes on through our project personnel.

We have also stressed Gordon Linton's fraud bill. We have made it clear to everyone, whether they are majority contractors, minority contractors, and our project personnel who inspect projects, that it is a felony to do things that are fronts or illegal with respect to this program.

Second, I would like to further reiterate our project personnel. They know that if they see anything that looks improper on a project they contact two people, Joe Golden to my right, and Bruce Doman to my left. And both of them go out and they investigate. And if there are improprieties, they take appropriate action to see that it is corrected, whether it means replacing that DBE with another DBE, or correcting the situation so that that DBE can operate in an appropriate manner and try to correct the situation.

The bureau of equal opportunity, which Joe Golden heads up, also periodically just has people go out and visit jobs to see what is going on. Also, our inspector general investigates projects, even though they do not hear that anything is wrong, and especially projects that are being performed by DBE's who perform a significant amount of work for the department. They want to see how they are operating.

And the third item that I wanted to mention is the elimination of front activity.

We have decertified DBE's for fronting. We have had cases where DBE's did nothing more than receive a check for $1 and return a portion of that amount to another subcontractor or to the prime contractor. We have decertified those firms. And in the future, we will take criminal action against those firms.

We have also debarred prime contractors who are a party to that effort because this is a two-way effort. We will also have criminal action through the fraud bill.

The attorney general in Pennsylvania is responsible for prosecuting any such cases. Mr. Doman works with the attorney general.

Mr. Doman is also working with the office of the U.S. attorney in pursuit of civil damages under the Federal False Claims Act for those involved in significant false claims under this program.

We are also considering the possibility of withholding money through modifying our specifications to include liquidated damages against those firms that operate in an inappropriate manner.

The fourth item was efforts to alleviate barriers that restrict DBE participation.

I have already mentioned the mobilization payments to provide funding.

We also have an item that we call provisional prequalification. Sometimes a DBE might be very good at guiderail, but they have not yet learned drainage. The prime contractor is prequalified for drainage. For that project only, if the prime will sign to support the DBE, we would let the DBE perform the drainage. They will receive the support of the prime contractor, but the DBE must do the work and must manage the work.

The intent being that after one or two or three projects working under this provisional prequalification, the DBE will have the capability on their own——

Mr. MITCHELL. Sure.

Mr. YERUSALIM [continuing]. To perform this activity. And they will get their own prequalification.

We also are initiating a mentor-protege program right now that is new to the department. It has not moved very far, but it is just about to meet its threshold and start to open up. I think this will provide a lot of opportunities to DBE's to expand their areas of work.

Also, as I mentioned earlier, we have close ties with our inspection personnel and with the prime contractors and the DBE's. Our specifications make it clear that bonding is not required of subcontractors. So if a subcontractor is not able to get bonding, that does not restrict him from participating in our program.

And let me go a little aside. There is another provision in Federal law that Congressman Gray was quite active in, and that is a bonding program for DBE's. We are one of three States that will be pilot States in hiring an individual or individuals who will develop a bonding program for DBE's. They will go out and work with the DBE's to search out bonding for those DBE's who have the capability to receive bonding.

And we are right now reviewing the proposals that have come to us and working very closely with the Federal Highway Administration on that effort.

We do not require union affiliation. In fact, we do not allow that as a reason to reject a DBE on our projects. That is another item, I think, that removes a barrier from the DBE's participating in our contracts.

And I think the last item I wanted to mention there is that we do not reject DBE's quotes based on price alone. Now, that does not mean that we allow a DBE to bid 20 percent higher than a non-DBE. But if the prices are close and that is the only way that we can meet a goal, we feel that the intent of this program is to help the DBE's to advance, to learn, and we are willing to pay a little bit more money for a particular project.

If you are paying 5 percent more on a project for one item that is only 10 percent of the total cost of the project, that is less than one, that is about one-half of 1 percent of the total cost of the project. And both Pennsylvania and the Federal Highway Administration are more than willing to spend that money to make that occur.

Information management systems. If you go to the handout and go to the very last page you will see what we call our contract management system.

What this is, is the very last page of the year-end report that we submitted to the Federal Highway Administration regarding our DBE attainment, and what it lists—and this is only one page. I do have our entire report for you that I would like to leave with you today.

Mr. MITCHELL. I would appreciate it.

Mr. YERUSALIM. For the entire year.

Mr. MITCHELL. Thank you.

Mr. YERUSALIM. But if we look across the first project, if you are on attachment 3, the very last page of my formal presentation. Have you all found that?

Mr. MITCHELL. Lackawanna?

Mr. YERUSALIM. If we covered Lackawanna County it tells us what legislative group that is. That is how we identify our highways. Federal project number, the date the bid was opened, the award date for that project, the low bid, Federal share, the number of DBE contractors, in this case subcontractors, the actual DBE dollars, the goal, the actual DBE percentage. In that case the goal was 10 percent and the commitment was 10 percent.

And then we also get into the WBE, which I have not mentioned. We do have a 2-percent goal for WBE's on most of our projects.

We do not have the same sophistication in our computer management system for the other pages that we fund, right-of-way and utilities and research. But we will be working on that.

I want to mention though that that computer system that you see is only the upfront part of the program. That is the commitment when a project is awarded. We also follow the project through construction. And we use that same computerized system to ensure that the actual dollars that are committed to DBE's are actually paid. So we can monitor that.

And I am proud to say that the actual dollars that have been paid to DBE's over the past few years statewide have exceeded the commitment at the time of award. So we are very proud that that has occurred. And that is an indication that the prime contractors are really working with us to try and make this work.

The next item that you listed was other problems that impact DBE participation and performance in Pennsylvania. One of them I have already mentioned. That is DBE lack of access to capital. We are trying to help somewhat through the bonding program. We are trying to help somewhat through our mobilization program. But that remains a problem in this program. And I do not really have a complete solution to that.

Another item that we really need guidance on, we do not consider a problem but we need guidance, is that sometimes DBE's will have to rent equipment and they will have to rent operators for that equipment. Presently, there are no real guidelines to tell us how much of that dollar value can be credited toward the DBE. In fact, so far we have been told that all of those dollars can be credited.

So if a DBE has a subcontract for $200,000 and rents $50,000 worth of equipment with operators, the whole $200,000 is credited to the DBE.

We have not been able to get any clarification on that, although that is normal industry practice.

Mr. MITCHELL. Sure.

Mr. YERUSALIM. So we think it is an acceptable way, but there is a limit. We have been very careful. We do not accept the fact where a DBE is getting 5 percent of the money, the other 95 percent is being processed back through the prime or other rental agency. We do not accept that in Pennsylvania.

Another problem that we are very much concerned about is a program like this is an opportunity for fraud. We do everything possible to avoid fraud. Mr. Doman has spent the last 2½ years trying to eliminate fraud in the DBE Program. And to a large extent we have been able to do that. But we know that there is some fraud out there.

We have caught cases where the DBE's were not doing the work and decertified them and debarred the prime contractor because of that activity.

We have found that there is the passthrough money where the DBE's are not doing the work.

Another problem that we are somewhat worried about that has not quite really hurt us to date, is we do have some concern about the overextension of some of our DBE's. Some of them have taken more work than they are really able to perform. And we are trying to very carefully monitor that to make sure that they succeed.

The intent of this program is for these firms to succeed, not to overextend themselves such that they wind up defaulting or going bankrupt because of it. But it is a possible problem in the program.

The last two areas that you asked us to comment on are the amount of Federal dollars that were awarded in Federal fiscal year 1984 and Federal fiscal year 1985, and the amount of Federal dollars that were committed to disadvantaged business enterprises. And I am proud to say that in both of those years we exceeded our goals.

In Federal fiscal year 1984 we had a little less than $580 million in Federal dollars awarded toward our projects. Of that, $69.3 million, or approximately 12 percent, was awarded to disadvantaged business enterprises. When you add the fact that that is only the

Federal share that there is also a State share of that money that goes to DBE's, approximately $87 million in Federal fiscal year 1984 went to DBE's.

In Federal fiscal year 1985 we greatly expanded our program. For the first time ever, Penndot awarded $1 billion in construction projects. Some of those are 100 percent State projects. But of that, $759.1 million was in Federal dollars. Of that $759.1 million, $85.1 million was committed to disadvantaged business enterprises, or a little over 11 percent.

When you include the State dollars that went to the DBE's, approximately $108 million has gone to disadvantaged business enterprises through commitments in Federal fiscal year 1985.

Let me just make a minor correction. The figures I have given you include all phases of the Federal aid program, not just contracting.

Mr. MITCHELL. OK.

Mr. YERUSALIM. They include the design, the right-of-way, and the utilities and the research program. So not all of those Federal dollars are committed to construction.

Basically, the way I have looked at the program since it started, and I hope you do not get too shocked when I say this, but I look forward to the day when this program will self-destruct. I look forward to the day when disadvantaged firms will no longer be disadvantaged, when they can compete on equal footing, and we will not have to set goals, when they will be able to compete equally, they will be prime contractors, they will be subcontractors and they will even maybe exceed the goals that we are setting today. And I think that is what the program is all about.

While I have identified some problems that have occurred in Pennsylvania, we are trying very hard to correct them. We think the program has succeeded in Pennsylvania.

We look for expansion of the DBE areas that they can work in, and we also look for more qualified DBE's to get involved in the program. We are trying very hard to make that occur.

Thank you, Mr. Chairman.

Mr. MITCHELL. Thank you, and thank all three of you gentlemen. You restore my faith in humanity. You really do. You do have problems, but you are tackling them in a logical manner. I am not surprised by your last statement. That is what I want. I want to see a time in this country when we do not need this kind of law, but that is somewhere down the road. And until we get to that point, we have to operate certainly with a backing up of law.

You mentioned fraud in the programs. Of course, there will always be—there is fraud in Congress. That is why we have a House committee on judicial proceedings, because of fraudulent Congressmen. In any endeavor, there are fraudulent ministers. So, all we try to do, as you are doing through your good work, is to make it tight, monitor carefully, and try to reduce it.

Let me ask you just a couple of questions. We heard that in some parts of the country these awful minority business persons lack operating capital, and they do not have the ability to get the equipment required for the job. But apparently you are advancing up front through your mobilization program some of the funds and,

therefore, they are able to have operating capital and to get equipment; is that correct? It helps them.

Mr. YERUSALIM. We allow that in our specifications. It is happening more and more. The first year of the program a requirement was that all the mobilization be paid up front. And the subcontractors and the prime contractors were not able to reach agreement when that occurred, because there was a fear, especially where guiderail was the item, in some large projects guiderail might not be constructed for 2 years after the project started.

So, we changed the specification to give smaller amounts of mobilization up front, and now we are finding that that is occurring in the projects. That the prime and the subcontractors are entering into agreements to provide mobilization payments up front.

Mr. MITCHELL. Have you found in the State of Pennsylvania, that DBE's are so stupid they do not even know how to market their own firm? Let me put it another way. Do you feel that your minority firms have the ability to market themselves?

Mr. YERUSALIM. They have some ability, and they certainly could use improvement, but I will not say that they could not use improvement. In fact, the ones that have the best marketing ability seem to get the most work.

Mr. MITCHELL. Sure, sure. And not all majority firms know how to market themselves, do they? Some guy did an awful job on marketing with some soft drink. Came up with something new, I forgot the name of it, and people were up in arms, saying, "Give me back my old Coca Cola."

Mr. YERUSALIM. Yes.

Mr. MITCHELL. They could not market it. So, many people need more marketing experience, right. But you do not find them abysmally lacking in the ability to market, do you?

Mr. YERUSALIM. No; we do not, although we do have a few projects where the DBE's were the prime contractors, by the way, and a few more where the WBE's were the prime contractors. But they do try and seek each other out. We are trying to increase that in the future. In fact, our next supportive services contract will really stress the matchmaking of the DBE's with the non-DBE's; the marketing will take place through our supportive services contract.

Mr. MITCHELL. I am very pleased to note the kind of cooperation you are getting from the primes in actually assisting. It is excellent.

Just two more questions, then I will quit. One could be led to believe that DBE firms do not even have the ability to negotiate contract prices, and do not have the ability to negotiate subcontracts. Has that been your experience?

Mr. YERUSALIM. For the most part, that has not, but there have been some bad experiences——

Mr. MITCHELL Sure.

Mr. YERUSALIM [continuing]. In a few cases, but for the most part, that is not——

Mr. MITCHELL. But you would not say as a general assumption that DBE's are unable to negotiate a contract price, would that be a general assumption?

Mr. YERUSALIM. No; it would not be a general assumption. In fact, our prime contractors have tried to help to the extent that if they see a price that seems unreasonably low, they go back to the DBE and say, "Will you check your figures; this does not seem in line with current industry prices." And it is not their intent to have the DBE's fail during their contract, because if they fail, then they have to go out and try to replace that dollar value.

Mr. MITCHELL. Sure. I thank you very much. I commend you. I reiterate, you restore my faith in humanity. You are not perfect in the State of Pennsylvania, no State is. But it appears to me that you are taking a positive attitude toward implementing this program. That is all we could ask of anyone.

Congressman Hayes.

Mr. HAYES. Thank you, Mr. Chairman, and forgive me if I do not correctly pronounce your name, Mr. Yerusalim?

Mr. YERUSALIM. You did it perfectly.

Mr. HAYES. OK. I do not have any questions I want to raise with you. I just want to comment and commend you and the State of Pennsylvania for the kind of success that you realize with your program. You have acknowledged that there are some problems, but you are trying to find a way to cope with these problems. I wondered if there was—if you have any objections of passing on the guidelines for your success in Pennsylvania to some of the other States where they have not been so successful.

Mr. YERUSALIM. Well, we are very much willing to work with other States. In fact, when we first started out——

Mr. HAYES. Including my own. I am not excluding my own State, Illinois, no.

Mr. YERUSALIM. When we first started out, we used Maryland as our model. We think, by the way, in deference to Mr. Chairman, that we have surpassed Maryland. But in the beginning, we used to automatically accept firms that were certified by Maryland. [Laughter.]

Mr. MITCHELL. I knew that this entente cordiale would not last forever. [Laughter.]

Mr. HAYES. There is an aura of conviction that goes along with the implementation of this kind of programs of the people who have the responsibility of administering it. I can recognize within your particular responsibility you certainly have a conviction that this program is right. I am not being too presumptuous in assuming that you, even though you would like to see this date of self-destruction come along, until we reach that date, you are for the reauthorization of this program; is that right?

Mr. YERUSALIM. Well, let me answer that in the way that I am responsible for a $2.3 billion budget, and I am responsible for 13,000 employees, but my biggest challenge has been this program. And let me also say that certainly the people who have made this program work, to the extent it has worked in Pennsylvania, are the gentlemen to my left, Mr. Doman. Without him slapping my wrist quite often, there would be more fraud and abuse in Pennsylvania.

Mr. HAYES. Thank you. The two gentlemen to his left——

Mr. YERUSALIM. And to my right.

Mr. HAYES [continuing]. May have a raise forthcoming in view of that statement.

Thank you very much, Mr. Chairman.

Mr. MITCHELL. Thank you, gentlemen.

[Mr. Yerusalim's prepared statement, with attachments, follows:]

PREPARED STATEMENT OF HOWARD YERUSALIM, DEPUTY SECRETARY FOR ADMINISTRATION, PENNSYLVANIA DEPARTMENT OF TRANSPORTATION

INTRODUCTION

I AM GLAD TO BE HERE TODAY TO PRESENT INFORMATION ON PENNSYLVANIA'S COMPLIANCE WITH SECTION 105(F) OF THE STAA OF 1982 AS REQUESTED IN YOUR SEPTEMBER 16, 1985, LETTER TO THE HONORABLE RICHARD L THORNBURGH, GOVERNOR, COMMONWEALTH OF PENNSYLVANIA. I PERSONALLY HAVE WORKED VERY CLOSE WITH THIS PROGRAM SINCE ITS PASSAGE. IT HAS BEEN A PROGRAM THAT HAS BEEN GOOD TO THE DISADVANTAGED COMMUNITY IN PENNSYLVANIA, BUT CERTAINLY HAS NOT BEEN WITHOUT SOME PROBLEMS. I HAVE WITH ME TODAY BRUCE K DOMAN, THE INSPECTOR GENERAL FOR THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION, WHO IS CHARGED WITH REVIEWING ALL REQUESTS FOR CERTIFICATION, RECOMMENDING APPROVAL OR DENIAL, AND IN GENERAL ASSURING THAT THE CERTIFICATION AND THE ENTIRE PROGRAM ARE FOLLOWED THROUGH IN AN HONEST AND LEGAL MANNER. ALSO WITH ME IS JOSEPH W GOLDEN, JR, DIRECTOR OF OUR BUREAU OF EQUAL EMPLOYMENT OPPORTUNITY, WHO HAS DIRECT RESPONSIBILITY WITH ME FOR THIS PROGRAM. BEFORE I BEGIN MY REMARKS, HOWEVER, LET ME SAY THAT EVERYONE IN THE PENNSYLVANIA DEPARTMENT OF TRANSPORTATION INVOLVED IN DESIGN, RIGHT OF WAY, RESEARCH AND ESPECIALLY CONSTRUCTION IS VERY MUCH INVOLVED IN ASSURING THAT THE PROGRAM IS RUN IN A FAIR, EQUITABLE AND HONEST MANNER.

MY REMARKS WILL BASICALLY FOLLOW THE REQUESTS IN YOUR SEPTEMBER 16, 1985, LETTER TO GOVERNOR THORNBURGH. YOU ASKED THAT WE ADDRESS EIGHT SPECIFIC ITEMS WHICH I WILL DO.

I. PENNSYLVANIA'S CERTIFICATION PROCESS

ALL APPLICANTS FOR DISADVANTAGED BUSINESS ENTERPRISE (DBE) STATUS ARE REQUIRED TO COMPLETE A COMPREHENSIVE FORM EXPLAINING THE BACKGROUND, OWNERSHIP, AND OPERATIONAL DETAILS OF THE COMPANY. WE REQUIRE ALONG WITH THIS FORM EXTENSIVE DOCUMENTATION INCLUDING: AUDITED FINANCIAL STATEMENTS, PRIOR TAX RETURNS, RESUMES OF PRINCIPALS, CORPORATE BY-LAWS, AND ALL THIRD PARTY AGREEMENTS. THE APPLICATION AND ACCOMPANYING DOCUMENTS ARE ANALYZED BY THE OFFICE OF INSPECTOR GENERAL, AND ONLY AFTER THIS ANALYSIS IS COMPLETE IS A DBE ANALYST SENT TO THE APPLICANT'S OFFICE FOR AN ON-SITE INTERVIEW WITH THE PRINCIPALS AND ON-SITE INSPECTION OF DOCUMENTS. OUR DEPARTMENT SPECIFICALLY CREATED THE POSITION OF DBE ANALYST TO RESPOND TO OUR NEEDS FOR A COMPLETE, SUCCESSFUL, AND HONEST DBE PROGRAM.

AFTER THE ON-SITE INTERVIEW, A REPORT OF INTERVIEW AND ALL DOCUMENTATION ARE REVIEWED BY THE INSPECTOR GENERAL, WHO THEN RECOMMENDS EITHER CERTIFICATION OR NON-CERTIFICATION. IN SOME INSTANCES, HE MAY SUGGEST IMPROVEMENTS OR CHANGES IN THE COMPANY'S WAY OF DOING BUSINESS TO ASSIST A MINORITY APPLICANT IN MEETING THE PROGRAM'S REQUIREMENTS.

IN THE EVENT AN APPLICANT IS DENIED CERTIFICATION, HE HAS THE RIGHT TO APPEAL TO THE DEPARTMENT'S APPEALS COMMITTEE WHICH CONSISTS OF FIVE DEPARTMENT OFFICIALS WHICH I CHAIR. THIS COMMITTEE GIVES THE DEPARTMENT A SECOND, INDEPENDENT REVIEW OF THE APPLICANT'S CIRCUMSTANCES. OF COURSE, ALL AGGRIEVED APPLICANTS ARE THEN FREE TO APPEAL TO THE UNITED STATES DEPARTMENT OF TRANSPORTATION.

II. THE PROCEDURES USED BY PENNSYLVANIA TO ENSURE COMPLIANCE WITH SECTION 105(F) REGARDING DBE PARTICIPATION.

WE FEEL THAT WE HAVE A VERY STRONG PROGRAM TO ENSURE COMPLIANCE WITH THE DBE REQUIREMENTS OF THE STAA OF 1982. THE FIRST STEP IS SETTING GOALS FOR INDIVIDUAL PROJECTS. IN SETTING GOALS, WE LOOK AT ALL THE ITEMS INCLUDED IN THE CONTRACT THAT COULD POSSIBLY BE PERFORMED BY DBEs. WHEN WE CERTIFY DBEs, WE INQUIRE OF THEM WHICH PARTS OF THE STATES THEY WOULD BE WILLING TO WORK. BASED ON THIS, WE SET INDIVIDUAL GOALS FOR INDIVIDUAL PROJECTS. WE DO NOT HAVE A QUOTA SYSTEM OR SET ASIDES. SOMETIMES IN AN URBAN AREA SUCH AS PITTSBURGH OR PHILADELPHIA, THE GOALS COULD BE AS HIGH AS 20%; WHEREAS IN A RURAL COUNTY SUCH AS TIOGA COUNTY IN PENNSYLVANIA, THE GOALS COULD BE MUCH LESS.

WE ALLOW FOR "PROVISIONAL PREQUALIFICATION" FOR DBEs SO THAT THEY CAN LEARN NEW AREAS OF CONSTRUCTION AND EXPAND THEIR ABILITIES FOR FUTURE PROJECTS. BASICALLY, PROVISIONAL PREQUALIFICATION IS A SYSTEM WHEREBY A PRIME CONTRACTOR WHO IS PREQUALIFIED FOR AN ITEM FOR WHICH A DBE IS NOT PREQUALIFIED, CAN SIGN TO INDICATE THAT THEY WILL PROVIDE SUPPORT TO THE DBE IN THAT AREA. WHEN THAT OCCURS, WE GRANT PROVISIONAL PREQUALIFICATION TO THE DBE FOR THAT AREA OF WORK FOR THAT PROJECT ONLY. HOWEVER, WE ENSURE THAT THE ITEM OF WORK IS DONE BY AND MANAGED BY THE DBE IN ORDER TO COUNT TOWARD THE DBE PARTICIPATION FOR THAT PROJECT. WHAT THIS HAS ALLOWED HAS BEEN THE EXPANSION OF THE AREAS IN WHICH DBEs ARE PREQUALIFIED. AFTER ONE OR TWO PROJECTS

WORKING UNDER THIS PROVISIONAL PREQUALIFICATION, THE DBE MAY DEVELOP HIS OR HER OWN EXPERTISE SO THAT THEY CAN BECOME PREQUALIFIED ON THEIR OWN AND NOT NEED THE SUPPORT OF A PRIME CONTRACTOR.

WE ALSO MAKE SURE THAT SPECIFICATIONS AND REQUESTS FOR PROPOSALS ARE MADE AVAILABLE IN A TIMELY MANNER TO DISADVANTAGED ENTERPRISES THROUGH OUR "DISTRICT OFFICES, OUR SUPPORTIVE SERVICES CONTRACTORS AROUND THE STATE AND OUR MAJOR CONTRACTING ASSOCIATIONS IN THE EASTERN, WESTERN AND CENTRAL PARTS OF PENNSYLVANIA. TO HELP DBES THROUGH THEIR CASH FLOW PROBLEMS, WE HAVE SET A SPECIAL MOBILIZATION ITEM FOR DISADVANTAGED BUSINESS ENTERPRISES WHERE MORE MONEY IS AVAILABLE TO THE DBES UP FRONT. THE INTENT IS TO ENSURE THAT DBES THAT DO NOT HAVE A LOT OF CASH WILL NOT RUN INTO FINANCIAL PROBLEMS WHILE THEY ARE WAITING FOR PAYMENT FOR SPECIFIC ITEMS OF WORK. I HAVE ATTACHED (ATTACHMENT #1) A COPY OF OUR MOBILIZATION SPECIFICATIONS AS WELL AS OUR OVERALL DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION AFFIRMATIVE ACTION REQUIREMENT SPECIFICATIONS FOR YOUR INFORMATION. ADDITIONALLY, PREBID MEETINGS ARE HELD TO EXPLAIN OUR PROJECTS TO OUR PROSPECTIVE BIDDERS AS WELL AS SUBCONTRACTORS.

OUR NUMBER OF DBES HAS INCREASED IN PENNSYLVANIA THROUGH THE USE OF SEMINARS, TRAINING SESSIONS, TRADE FAIRS AND NEWSPAPER ADS. WE USE OUR SUPPORTIVE SERVICES CONTRACTORS TO ASSIST DBES IN PREPARING BIDS AND BECOMING CERTIFIED AND BECOMING PREQUALIFIED SO THAT THEY CAN PARTICIPATE IN THE PROGRAM. WE WORK

TOGETHER WITH BOTH THE MINORITY CONTRACTING ASSOCIATIONS AND THE STATEWIDE, EASTERN AND WESTERN CONTRACTING ASSOCIATIONS SO THAT THEY CAN HELP IN THE PROGRAM. PENNSYLVANIA ALSO HAS ENACTED A FRAUD BILL REGARDING MINORITY- AND WOMEN-OWNED BUSINESSES. ATTACHED IS A SHORT BROCHURE (ATTACHMENT #2) WHICH EXPLAINS THIS SO CALLED "FRAUD BILL" AND THE PENALTIES THAT COULD OCCUR SHOULD SOMEONE TRY TO FRAUDULENTLY REPRESENT THEMSELVES IN ANY WAY AS A DBE OR PERFORM IN AN UNLAWFUL MANNER.

AFTER WE SET THE GOALS FOR A PARTICULAR PROJECT AND IF THE PRIME CONTRACTOR DOES NOT MEET THE GOALS, WE HAVE A GOOD FAITH EFFORT REVIEW COMMITTEE TO DETERMINE IF THE CONTRACTOR HAS ACTUALLY MADE A GOOD FAITH EFFORT TO MEET THE GOALS SET FOR THE PROJECT. ATTACHMENT #1 INCLUDES INFORMATION ON WHAT CONSTITUTES A GOOD FAITH EFFORT. THE "GOOD FAITH EFFORT" REQUIREMENTS ARE VERY STRINGENT. WE HAVE REJECTED PROJECTS AND LOW BIDDERS BECAUSE THEY HAVE NOT MADE A GOOD FAITH EFFORT. IN FACT, WE HAVE BEEN IN COURT FOUR OR FIVE TIMES TO DATE BASED ON SUITS BROUGHT BY THE CONTRACTORS WHO FELT THEY MADE A GOOD FAITH EFFORT. I AM GLAD TO REPORT THAT IN ONLY ONE CASE DID WE LOSE IN COURT. SINCE THAT TIME, WE HAVE FURTHER STRENGTHENED OUR SPECIFICATIONS.

SOME OF THE OTHER THINGS THAT WE HAVE DONE INCLUDE FORMING A DBE ADVISORY COMMITTEE. ALSO TO ENSURE COMPLIANCE, WE HAVE A VERY STRONG MONITORING PROGRAM DURING CONSTRUCTION. WE HAVE

HELD SEMINARS AROUND THE STATE WITH THE DBEs, THE PRIME CONTRACTORS AND ESPECIALLY WITH OUR INSPECTORS AND PROJECT ENGINEERS TO ENSURE THAT THEY VERY CLOSELY MONITOR THE PROGRESS OF WORK BEING PERFORMED BY DBEs TO ASSURE THAT THE DBEs ARE ACTUALLY PERFORMING THE WORK.

THE LAST THING I WANTED TO MENTION REGARDING OUR PROCEDURES IS THAT WE VERY CAREFULLY LOOK AT THE ACTUAL DOLLARS PAID TO DBEs AT THE CONCLUSION OF A CONTRACT AS COMPARED AS TO THE DOLLARS INDICATED PRIOR TO THE AWARD OF THE PROJECT ON A FORM CALLED "ATTACHMENT A." TO DATE, ACTUAL DOLLARS PAID HAVE EXCEEDED THE AMOUNTS INDICATED IN OUR ATTACHMENT A'S STATEWIDE.

III. THE ENFORCEMENT MECHANISM USED BY PENNSYLVANIA TO ENSURE THAT "FRONT COMPANIES" DO NOT PARTICIPATE IN THE PROGRAM

WE CONSIDER ENFORCEMENT TO BE CRUCIAL TO THE SUCCESS OF THIS PROGRAM, AS THE SUBSTANTIAL AMOUNTS OF MONEY INVOLVED ARE SADLY A LURE TO THOSE WHO WOULD DIVERT REWARDS INTENDED BY CONGRESS FOR DISADVANTAGED BUSINESS ENTERPRISES (DBE).

A. THERE ARE THREE STAGES TO OUR ENFORCEMENT PROCEDURES. THE FIRST AND MOST IMPORTANT IS PREVENTION. THE KEY TO OUR PREVENTION PROGRAM IS EDUCATION. WE AWARD EACH YEAR A SUPPORTIVE SERVICE CONTRACT TO ASSIST MINORITY BUSINESS ENTERPRISES IN SUCCESSFULLY COMPETING FOR WORK AND TO AID THEM, IF NECESSARY, IN THE CERTIFICATION PROCESS. OUR SUPPORTIVE SERVICE CONTRACTORS ARE ALERT TO POTENTIAL FALSE FRONT ACTIVITIES AND THEY CAN GUIDE LEGITIMATE MINORITY BUSINESSES AWAY FROM ILLEGAL ENTREATIES THEY MIGHT RECEIVE FROM NON-MINORITY CONTRACTORS.

OUR OFFICE OF INSPECTOR GENERAL HAS INITIATED AN EDUCATION PROGRAM TO TRAIN THE DEPARTMENT'S PROJECT PEOPLE ON KEY INDICATORS OF FRONTING ACTIVITIES, SO THAT THESE MEN AND WOMEN WHO ARE ACTUALLY ON THE JOB WILL BE BETTER ABLE TO DETECT FRAUDULENT ACTIVITY AND REPORT IT. AT THE SAME TIME WE HAVE CONFERENCES STATEWIDE TO EDUCATE MAJORITY AS WELL AS MINORITY CONTRACTORS ON THE APPROPRIATE WAYS TO FULFILL

MINORITY GOALS AND WE HAVE STRESSED THE IMPORTANCE OF ELIMINATING FRONT ACTIVITIES. FRONTING ACTIVITIES NOW CONSTITUTE A FELONY IN PENNSYLVANIA AS A RESULT OF OUR NEW DBE FRAUD LAW (MENTIONED PREVIOUSLY) PASSED EARLY THIS YEAR WITH THE ACTIVE SUPPORT OF OUR DEPARTMENT.

WHILE WE ACTIVELY SEEK TO ASSIST ALL NEW APPLICANTS FOR CERTIFICATION, WE ALSO SEND EACH MINORITY BUSINESS A COPY OF THE DBE FRAUD LAW. AS A FELONY, DBE FRAUD IS PUNISHABLE IN PENNSYLVANIA BY UP TO SEVEN YEARS IMPRISONMENT.

B. THE SECOND LEG OF OUR ENFORCEMENT PROGRAM IS DETECTION. OUR FIRST LINE OF DEFENSE IS OUR PROJECT PERSONNEL. THESE INDIVIDUALS, WHO ARE ACTIVELY ENGAGED IN EACH OF OUR PROJECTS, HAVE BEEN INSTRUCTED TO IMMEDIATELY CONTACT THE INSPECTOR GENERAL OR THE BUREAU OF EQUAL OPPORTUNITY (BEO) IN THE EVENT OF ANY SUSPICIOUS ACTIVITY REGARDING A MINORITY SUBCONTRACT. IN ADDITION, OUR BEO ROUTINELY MONITORS AFFIRMATIVE ACTION PROGRAMS AND IS ALERT FOR THE POTENTIAL OF ABUSE IN THE DBE PROGRAM.

LASTLY, OUR OFFICE OF INSPECTOR GENERAL ACTIVELY INVESTIGATES NOT ONLY THE ALLEGATIONS RECEIVED FROM OUR OWN PERSONNEL AND PRIVATE CITIZENS, BUT IT ALSO ROUTINELY MONITORS ACTIVITIES OF THOSE MINORITY BUSINESSES WHICH MOST SIGNIFICANTLY PARTICIPATE IN THE PROGRAM ACROSS PENNSYLVANIA. THE INSPECTOR GENERAL ACTIVELY SEEKS THE ASSISTANCE OF THE

ATTORNEY GENERAL OF PENNSYLVANIA, AS WELL AS THE UNITED STATES ATTORNEYS AND THE FEDERAL BUREAU OF INVESTIGATION IN CRIMINAL INVESTIGATIONS AND PROSECUTIONS.

C. THE THIRD AND FINAL LEG DEALS WITH OUR EFFORTS TO ELIMINATE FRONTING ACTIVITIES ENTIRELY. WE HAVE SEVERAL TOOLS TO ACCOMPANY THIS GOAL. THE FIRST IS DECERTIFICATION. WHENEVER FRONTING ACTIVITIES ARE DETECTED, OUR OIG WILL INVESTIGATE AND, IF WARRANTED, RECOMMEND DECERTIFICATION TO OUR DEPARTMENT'S APPEALS COMMITTEE. THIS COMMITTEE WILL NOT HESITATE TO DECERTIFY THOSE FIRMS NOT COMPLYING WITH FEDERAL REGULATIONS.

SECONDLY, WE ACTIVELY SEEK TO DEBAR THOSE NON-MINORITY FIRMS WHICH CONSPIRE TO MEET DBE GOALS THROUGH A FRONT COMPANY.

THIRD, WE SUPPORT THE CRIMINAL PROSECUTION OF FALSE FRONT COMPANIES. THIS PROCESS IS JUST NOW STARTING IN PENNSYLVANIA. IN SOME INSTANCES, SEARCH WARRANTS HAVE BEEN SERVED AND WE ANTICIPATE ARRESTS WITHIN 30 DAYS. OUR INSPECTOR GENERAL IS ENGAGED IN DISCUSSIONS WITH THE OFFICE OF THE UNITED STATES ATTORNEY FOR THE PURSUIT OF CIVIL DAMAGES UNDER THE FEDERAL FALSE CLAIMS ACT AGAINST THOSE PRIME CONTRACTORS WHO HAVE BEEN AWARDED SUBSTANTIAL FEDERAL AID CONTRACTS BASED UPON FALSE INFORMATION WHICH THEY SUPPLIED CONCERNING THE PARTICIPATION OF MINORITY BUSINESSES.

WE ARE ALSO CONSIDERING AMENDING OUR STANDARD CONSTRUCTION CONTRACTS TO PROVIDE FOR LIQUIDATED DAMAGES IN THE EVENT OF FAILURE TO MEET MINORITY GOALS WITHOUT PROPER CAUSE.

IV. THE KIND OF EFFORTS BEING MADE BY PENNSYLVANIA TO ELIVIATE ANY BARRIERS THAT RESTRICT DBE PARTICIPATION IN THE PROGRAM

THERE ARE MANY THINGS THAT WE DO IN PENNSYLVANIA TO ELEVIATE BARRIERS TO DBEs. PREVIOUSLY I MENTIONED MOBILIZATION PAYMENT UP FRONT TO HELP DBEs THROUGH CASH FLOW PROGRAMS. I PREVIOUSLY MENTIONED THE PROVISIONAL PRE-QUALIFICATION THAT GIVES DBEs A CHANCE TO EXPAND THEN EXPERTISE. WE ARE TRYING TO INITIATE A MENTOR-PROTEGE PROGRAM SO THAT DBEs CAN JOIN UP WITH ESTABLISHED CONTRACTORS AND LEARN MORE AREAS OF CONSTRUCTION. WE ALSO HAVE HAD ON OPEN-DOOR POLICY FOR DBEs TO ASSIST THEM IN ANY WAY POSSIBLE. WE WORK VERY CLOSELY WITH OUR CONSTRUCTION INSPECTION AND PROJECT ENGINEERING STAFF AS WELL AS PRIME CONTRACTORS AND DBEs REGARDING ANY PROBLEMS THAT OCCUR. YOU MAY NOTE THAT OUR SPECIFICATIONS INDICATE THAT FAILURE TO POST A BOND IS NOT REASON TO NOT ACCEPT A DBE FOR A PROJECT. WE ALSO MENTIONED THAT UNION AFFILIATION AND PRICE ALONE ARE NOT REASONS TO REJECT A DBE'S BID; HOWEVER, THE DBE'S BID MUST BE SOMEWHAT IN LINE WITH NON-DBE'S BIDS FOR A PROJECT. AS PREVIOUSLY MENTIONED, OUR SUPPORTIVE SERVICES CONTRACTORS THROUGHOUT THE STATE, ONE HOUSED IN PITTSBURGH, ONE HOUSED IN PHILADELPHIA, AND ONE HOUSED IN HARRISBURG, SERVE THE DBEs IN THE EASTERN, CENTRAL AND WESTERN PORTIONS OF THE STATES. THEY TRY TO PROVIDE SUPPORT TO THE DBEs BY HELPING THEM IN BIDDING, MATCHING THEM UP WITH PRIME CONTRACTORS AND JUST PROVIDING GENERAL SUPPORT TO THE DBEs.

V. THE INFORMATION MANAGEMENT SYSTEM USED BY PENNSYLVANIA FOR COLLECTING AND COMPILING DATA ON DBE PARTICIPATION UNDER THE ACT.

I HAVE ATTACHED THE LAST PAGE FROM THE CONSTRUCTION PORTION OF OUR FINAL FFY 85 REPORT TO THE FEDERAL HIGHWAY ADMINISTRATION ON DBE PARTICIPATION OR COMMITMENTS ON CONSTRUCTION PROJECTS THROUGHOUT THE STATE. THE TOTAL LISTING INCLUDES ALL PROJECTS THAT WERE AWARDED DURING FEDERAL FISCAL YEAR 85 AND INCLUDES THE LOW BID, THE FEDERAL SHARE, THE GOALS, AS WELL AS THE ACTUAL DBE COMMITMENTS. YOU WILL NOTICE THAT FOR CONSTRUCTION, THE DBE COMMITMENTS WERE 10.8% IN FFY 85 STATEWIDE. THIS IS A COMPUTERIZED SYSTEM THAT ALSO TRACKS PAYMENTS DURING CONSTRUCTION SO THAT WE CAN USE THE SAME SYSTEM TO EVALUATE WHETHER THE GOALS HAVE BEEN MET WHEN A PROJECT IS COMPLETE. I HAVE WITH ME A COPY OF OUR FEDERAL FISCAL YEAR 85 TOTAL REPORT TO THE FEDERAL HIGHWAY ADMINISTRATION WHICH I WILL GIVE TO YOU SHOULD YOU REQUEST THIS INFORMATION.

VI. OTHER PROBLEMS YOU HAVE IDENTIFIED THAT IMPACT ON DBE PARTICIPATION AND PERFORMANCE IN PENNSYLVANIA.

THERE HAVE BEEN OTHER PROBLEMS THAT HAVE OCCURRED IN THE DBE PROGRAM. ONE OF THE MAIN PROBLEMS HAS BEEN THAT THERE WAS A GREAT EXPANSION IN THE PROGRAM AS SOON AS SECTION 105(F) PASSED. WE HAD INCREASED OUR DBE PARTICIPATION FROM LESS THAN 1% IN 1979 TO 3% THE YEAR BEFORE THE STAA OF 1982. IN APRIL OF 1983, WE ONLY HAD 125 CERTIFIED DBEs/WBEs. NOW THAT FIGURE HAS INCREASED TO BETWEEN 700 AND 800 CERTIFIED DBEs/WBEs.

HOWEVER, MINORITY FIRMS IN PENNSYLVANIA CONTINUE TO BE PLAGUED BY A LACK OF ACCESS TO CAPITAL RESOURCES. MOST ASPECTS OF HIGHWAY CONSTRUCTION ARE CAPITAL INTENSIVE, MAKING IT IMPOSSIBLE TO SUCCESSFULLY COMPETE IN THESE AREAS WITHOUT SUBSTANTIAL CAPITAL. CONCRETE AND ASPHALT PRODUCTION AND SUPPLY ARE GOOD EXAMPLES. OUR MOBILIZATION PAYMENTS HELP, BUT DON'T RESOLVE THESE PROBLEMS.

ONCE LEGITIMATE MINORITY FIRMS ARE CERTIFIED AND ACTIVELY PARTICIPATING IN OUR PROGRAM, WE HAVE FOUND THAT CONTRACTORS MAY MAKE EFFORTS TO INFLATE THE MINORITY'S LEVEL OF PARTICIPATION. THIS CAN BE DONE BY INCREASING THE AMOUNT OF MATERIALS WHICH FLOW THROUGH THE MINORITY, BY TRANSFERRING EMPLOYES TO THE MINORITY, THUS INFLATING THE MINORITY'S PAYROLL AND BY LEASING EQUIPMENT TO THE MINORITY, THUS INCREASING THE MINORITY'S RATES OF PARTICIPATION AND THEREBY DEPRIVING OTHER MINORITY BUSINESSES OF THESE DOLLARS IN THE CONTRACT. CURRENT FEDERAL RULES GIVE THE STATES NO GUIDANCE AS TO THE AMOUNTS OF MATERIALS

WHICH MAY BE PURCHASED THROUGH MINORITIES WHEN THE MINORITY IS NOT THE ORIGIN OF THE MATERIALS, OF THE NUMBER OF EMPLOYES AND PAYROLL DOLLARS WHICH MAY BE TRANSFERRED TO THE MINORITY'S PAYROLL ON A TEMPORARY BASIS, OR THE AMOUNT OF EQUIPMENT WHICH MAY BE LEASED TO THE MINORITY ALONG WITH OPERATORS, ONLY TO BE PURCHASED BACK BY THE PRIME CONTRACTOR THROUGH THE SUBCONTRACT ARRANGEMENT. THERE IS ALSO NO REGULATION OF THE CALCULATION OF MINORITY PERCENTAGE WHEN A SIGNIFICANT AMOUNT OF THE MINORITY'S TOTAL CONTRACT PRICE IS, IN FACT, PAID BACK TO THE PRIME CONTRACTOR FOR MATERIALS, EQUIPMENT, AND OPERATORS. THE ABSENCE OF RULES IN THIS AREA SERVES TO INFLATE MINORITY PARTICIPATION WHILE REDUCING THE TOTAL NUMBER OF MINORITY CONTRACTORS WHO ARE ABLE TO TAKE PART IN THIS PROGRAM.

ANOTHER PROBLEM HAS BEEN THE POSSIBILITY FOR FRAUD IN THIS PROGRAM. WE HAVE IDENTIFIED SEVERAL CASES WHERE A VALID, CERTIFIED DBEs DID NOT PERFORM IN ACCORDANCE WITH THEIR CERTIFICATION. THEY BASICALLY ACTED AS PASS THROUGHS FOR FEDERAL DOLLARS. DECERTIFICATION AND DEBARRMENT ARE METHODS USED TO ELIMINATE THESE PROBLEMS.

THERE ARE ALSO CASES WHERE DBEs HAVE NOT BEEN ABLE TO PERFORM SATISFACTORILY. OUR PROJECT ENGINEERS, INSPECTORS, AS WELL AS THE PRIME CONTRACTORS HAVE TRIED TO ASSIST IN THESE MATTERS. HOWEVER, THERE HAVE BEEN A FEW CASES WHERE THE DBE HAD TO BE REPLACED DUE TO POOR PERFORMANCE. IN THESE CASES, WE REQUIRE REPLACEMENT WITH ANOTHER DBE OR SUBMISSION OF A GOOD FAITH EFFORT TO PROVE THAT ANOTHER DBE CANNOT BE FOUND TO REPLACE THE DOLLAR VALUE OF THE FAILING DBE TO PERFORM THEIR WORK.

I WOULD BE REMISSED IF I DID NOT INDICATE ONE AREA FOR WHICH I SHARE THE CONCERN OF CERTAIN SPECIALTY CONTRACTORS. IT APPEARS THAT ON EVERY PROJECT THAT INCLUDES LANDSCAPING OR GUIDERAIL, A DBE IS NAMED TO PERFORM THIS WORK. THIS HAS FORCED NON-DBE SPECIALTY CONTRACTORS OUT OF BUSINESS. SINCE WE DO NOT AND CANNOT DICTATE TO A PRIME CONTRACTOR WHAT ITEMS HE WILL SUB-CONTRACT IN PENNSYLVANIA, I DO NOT KNOW THE LONG-TERM SOLUTION TO THIS PROBLEM. SOLUTIONS MAY OCCUR THROUGH OUR PROVISIONAL PREQUALIFICATION DISCUSSED EARLIER AND THROUGH MENTOR/PROTEGE ARRANGEMENTS. THROUGH THE PROVISIONAL PREQUALIFICATION, WE ARE EXPANDING THE HORIZENS FOR DBEs SO THAT SOME DAY THEY CAN BID ON OTHER ITEMS AND HOPEFULLY WILL BECOME PRIME CONTRACTORS. I ALWAYS LOOK UPON THE GOALS OF THIS PROGRAM TO ENSURE THAT SOME TIME IN THE FUTURE THIS PROGRAM WILL SELF DESTRUCT SINCE DBEs WILL BE ABLE TO COMPETE ON EQUAL FOOTING WITH NON-DBEs. I LOOK FORWARD TO THAT DAY.

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VII.
VIII. THE TOTAL DOLLAR AMOUNT OF STATE FUNDS APPROPRIATED BY DOT TO PENNSYLVANIA UNDER THE STAA OF 1982 FOR FISCAL YEAR 84 AND 85 AND THE AMOUNT THAT PENNSYLVANIA HAS USED TO PROVIDE CONTRACTING OPPORTUNITIES TO DBEs FOR FISCAL YEARS 84 AND 85.

DURING FEDERAL FISCAL YEAR 1984, PENNSYLVANIA RECEIVED $579,442,015 IN FEDERAL AWARD DOLLARS. OF THAT AMOUNT, $69,299,849 HAS BEEN COMMITTED TO DBE FIRMS FOR A PERCENTAGE OF 12%. THIS HAS EXCEEDED OUR 10% GOAL BY 2%. FOR FEDERAL FISCAL YEAR 1985, WE RECEIVED $759,078,778 IN FEDERAL AWARD DOLLARS. $85,072,837 OR 11% OF THAT AMOUNT HAS BEEN AWARDED TO DISADVANTAGED BUSINESS ENTERPRISES.

IN CLOSING, LET ME SAY THAT THE PROGRAM HAS SUCCEEDED; HOWEVER, I FEEL THAT THE PROGRAM COULD USE IMPROVEMENT. IN THE FUTURE, WE COULD USE MORE DBEs; AND IT CERTAINLY WOULD BE VALUABLE IF THE HORIZENS OF THE DBEs WERE EXPANDED. I AND MY COLLEAGUES WOULD BE GLAD TO ANSWER ANY QUESTIONS THAT YOU MAY HAVE.

THANK YOU VERY MUCH.

ATTACH #1

SECTION 608 MOBILIZATION

Section 608.1 Description. Revise this section by adding the following:

Include in negotiations with DBE/WBE subcontractors the opportunity to identify an item for their mobilization. Include any amounts agreed to in the contract lump sum bid price for mobilization, also list agreed to amounts for each DBE/WBE subcontractor on Attachment A (part of documentation required by special provisions Disadvantaged Business Enterprise Utilization Affirmative Action Requirements).

Section 608.4 Measurement and Payment. Revise completely to read:

- Lump Sum

will be paid, as specified in Section 110.06, and in accordance with the following schedule:

(a) Submit the detailed construction schedule specified in Section 108.03 indicating thereon the starting date of work subcontracted to DBE/WBE's. One month prior to the scheduled start of the subcontracted DBE/WBE work, but not earlier than the Notice to Proceed, 25% of the amount shown on Attachment A for mobilization will be paid. The remaining 75% of the amount shown on Attachment A for mobilization will be paid in 3 equal payments, each payment made when subcontracted DBE/WBE work is 25%, 50%, and 75% completed. Pay the affected DBE/WBE's within 7 days of receipt of payment from the Department.

(b) Whenever work is performed equal to 10% of the total contract price, excluding the bid price for this item, the amount bid for mobilization less any payments made under Section 608.4(a), or 3% of the total contract price, excluding the bid price for this item, whichever is less, will be paid.

(c) Whenever work is performed equal to 25% of the total contract price, excluding the bid price for this item, any remaining amount bid for mobilization less any payment made under Section 608.4-(a), or an additional 2% of the total contract price, excluding the bid price for this item, whichever is less, will be paid.

(d) If the total contract lump sum price for mobilization has been paid prior to any payments made as specified in Section 608.4(a), pay 25% of the amount shown on Attachment A for mobilization to the affected DBE/WBE's not later than 10 days prior to the scheduled start of the subcontracted DBE/WBE work. Pay the remaining 75% as specified in Section 608.4(a).

(e) Upon completion of the project, any remaining amount bid for mobilization will be paid.

DISADVANTAGED BUSINESS ENTERPRISE UTILIZATION AFFIRMATIVE ACTION REQUIREMENTS

A. DBE & WBE GOALS - The Pennsylvania Department of Transportation has established in connection with this contract, the goal of % of the contract price for the utilization of firms owned and controlled by disadvantaged and the goal of % of the contract price for the utilization of firms owned and controlled by women.

B. POLICY - It is the policy of the U.S. Department of Transportation and the Pennsylvania Department of Transportation that Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 23, as amended, and this provision, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this contract. Consequently, the DBE requirements of 49 CFR Part 23, as amended, apply to this contract. The term DBE as used throughout shall also apply to Womens Business Enterprise (WBE) goals and all requirements herein are applicable.

C. DBE OBLIGATION - Take all necessary and reasonable steps in accordance with 49 CFR Part 23, as amended, to ensure that DBEs have the maximum opportunity to compete for and perform contracts. Do not discriminate on the basis of race, color, national origin, or sex in the award and performance of Pennsylvania Department of Transportation and U.S. Department of Transportation assisted contracts.

D. FAILURE TO COMPLY WITH DBE REQUIREMENTS - All contractors and subcontractors are hereby advised that failure to carry out the requirements hereinabove constitutes a breach of contract and, after notification to the U.S. Department of Transportation, may result in termination of the contract, being barred from bidding on Department contracts for up to three (3) years or any other remedy as the Pennsylvania Department of Transportation deems appropriate. Failure to comply with DBE requirements will include failure to submit Attachment A within the time requirements of the specifications for submission of required documents or failure to exert a reasonable good faith effort (as determined by the DBE Review Committee for good faith efforts) to meet the established goals. Failure to submit Attachment A within the specified time requirements will result in forfeiture of the bid guaranty. Failure in exerting reasonable good faith efforts may result in forfeiture of the bid guaranty.

E. Include the provisions of Sections B., C., and D. in every subcontract, so that such provisions will be binding upon each subcontractor, supplier, or service agency.

F. DEFINITIONS - As used in this requirement, the terms "Disadvantaged", "Disadvantaged Business Enterprise", or "DBE", or "Owned and Controlled" are defined below:

1. "Disadvantaged business enterprise" or "DBE" means a small business concern as defined in Small Business Act, 15 USC.

a. which is at least 51 percent owned by the one or more socially and economically disadvantaged individuals, or,

in the case of any corporation at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and

b. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

2. "Socially and economically disadvantaged individuals" means those individuals who are citizens of the United States and who are Black Americans, Hispanic Americans, Native Americans, or Asian-Pacific Americans and any other disadvantaged or individuals found to be disadvantaged by the Small Business Administration pursuant to section 8(a) of the Small Business Act. For convenience, these individuals and groups are referred to as "disadvantaged". The Department may make a rebuttable presumption that individuals in the following groups are socially and economically disadvantaged (the certification appeals mechanism of 49 CFR, Part 23, as amended, shall be available with respect to individuals alleged not to be socially and economically disadvantaged):

a. "Black Americans," which includes persons having origins in any of the Black racial groups of Africa;

b. "Hispanic Americans," which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish culture or origin, regardless of race;

c. "Native Americans," which includes persons who are American Indians, Eskimos, Aluets, or Native Hawaiians; and,

d. "Asian-Pacific Americans," which includes persons whose origins are from Japan, China, Taiwan, Korea, Vietnam, Laos, Cambodia, India, Pakistan, Bangladesh, the Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific, and the Northern Marianas.

3. "Owned and Controlled" means a business:

a. Which is at least 51 percentum owned by one or more disadvantaged or women or, in case of a corporation, at least 51 percentum of the stock of which is owned by one or more disadvantaged or women; and

b. Whose management and daily business operation are controlled by one or more such individuals.

D. COUNTING DBE PARTICIPATION TOWARDS DBE GOALS

The utilization of DBEs is in addition to all other equal opportunity requirements of the contract.

Count DBE participation toward meeting the DBE goal as follows:

1. If a firm is determined to be an eligible DBE, the total dollar value of the contract awarded to the DBE is counted toward the applicable DBE goal.

2. Count toward the DBE goal that portion of the total dollar value of a contract with a joint venture equal to the percentage of the DBE participant in the joint venture and indicate the firms that are DBEs on Form CS-4309.

3. The total dollar value of a contract with a DBE owned and controlled by disadvantaged women is counted toward either the disadvantaged goal or the goal for women, but not to both. If the firm is employed choose the goal to which the contract value is applied.

4. Count toward the DBE goal only expenditures to DBEs that perform a commercially useful function in the work of a contract. A DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of the work of a contract and carrying out its responsibilities by actually performing, managing, and supervising the work involved. To determine whether a DBE is performing a commercially useful function, the Department will evaluate the amount of work subcontracted, industry practices, and other relevant factors.

5. Count toward the DBE goals expenditures for materials and supplies obtained from DBE suppliers and manufacturers, provided that DBEs assume the actual and contractual responsibility for the provision of the materials and supplies.

   a. Count the entire expenditure to a DBE manufacturer (i.e. a supplier that produces goods from raw materials or substantially alters them before resale).

   b. Count 20 percent of the expenditures to DBE suppliers that are not manufacturers, provided that the DBE supplier performs a commercially useful function in the supply process.

6. Any services to be performed by a DBE agency is required to be readily identifiable to the project.

M. ACTIONS REQUIRED BY CONTRACTOR(S) AT BIDDING STAGE AND PRIOR TO AWARD

1. Submit the "Disadvantaged Business Enterprise Goal Attainment Certification" with the bid.

2. When the goal established by the Department is met or exceeded, the apparent low bidder shall either deposit Attachment A in Room 1109 Transportation and Safety Building by 3:00 P.M. Prevailing Local Time of the fourteenth (14th) calendar day after the bid opening or mail it to the Pennsylvania Department of Transportation, P.O. Box 2427, Harrisburg, PA 17105 so that it is received in Room 1109 Transportation and Safety Building by 3:00 P.M. Prevailing Local Time of the fourteenth (14th) calendar day after the bid opening.

3. When the documentation required in Section M.2. or M.4. is not provided by the apparent low bidder within the time

specified, the bid will be rejected and the next lowest responsible bidder will be notified by telephone to either deposit Attachment A in Room 1109 Transportation and Safety Building by 3:00 P.M. Prevailing Local Time of the fourteenth (14) calendar day after notification or mail it to the Pennsylvania Department of Transportation, P.O. Box 2827, Harrisburg, PA 17105 so that it is received in Room 1109 Transportation and Safety Building by 3:00 P.M. Prevailing Local Time of the fourteenth (14) calendar day after notification.

4. When the goal established by the Department is not met, demonstrate good faith efforts to meet the DBE contract goal. Demonstrate that the efforts made were those that a contractor actively and aggressively seeking to meet the goals established by the Department would make, given all relevant circumstances. Deposit or mail Attachment A and the good faith effort documentation so it is received by the time specified in Section H-2.

a. The contractor is expected to demonstrate good faith efforts by actively and aggressively seeking out DBE participation in the project to the maximum extent given all relevant circumstances. The following are the kinds of efforts that may be taken but are not deemed to be exclusive or exhaustive and the Department will consider other factors and types of efforts that may be relevant:

(1) Efforts made to select portions of the work proposed to be performed by DBEs in order to increase the likelihood of achieving the stated goal, including, where appropriate, but not limited to, breaking down contracts into economically feasible units to facilitate DBE participation. Selection of portions of work are required to at least equal the goal for DBE utilization specified in this contract.

(2) Written notification at least fifteen (15) calendar days prior to the opening of bid soliciting individual DBEs interested in participation in the contract as a subcontractor, supplier or service agency and for what specific items or type of work.

(3) Written notification to disadvantaged economic development assistance agencies and organizations which provide assistance in recruitment and placement of DBEs, of the type of work, supplies or services being considered by DBEs on this contract. (See Department's Disadvantaged Business Directory for partial listing).

(4) Efforts made to negotiate with DBEs for specific items of work:

(a) The names, addresses, telephone numbers of DBEs who were contacted, the dates of initial contact and whether initial solicitations of interest were followed up by contacting the DBEs to determine with certainty whether the DBEs

were interested; personal or phone contacts are expected;

(b) A description of the information provided to DBEs regarding the plans and specifications and estimated quantities for portions of the work to be performed; and,

(c) A statement of why additional agreements with DBEs were not reached;

(d) Documentation of each DBE contacted but rejected and the reasons for the rejection.

(5) Absence of any agreement between a contractor and a DBE in which the DBE promises not to provide subcontracting quotations to other bidders.

(6) Efforts made to assist the DBEs that need assistance in obtaining bonding, insurance, or lines of credit required by the contractor.

(7) Documentation that qualified DBEs are not available, or not interested.

(8) Attendance at any meetings scheduled by the Department to encourage better contractor-DBE relationships, forthcoming DBE utilization opportunities, etc.

(9) Advertisement in general circulation media, trade association publications, disadvantaged-focus media of interest in utilizing DBEs and area of interest.

(10) Efforts to effectively use the services of available disadvantaged community organizations; disadvantaged contractors' groups; local, state and federal disadvantaged business assistance offices; and other organizations that provide assistance in recruitment and placement of DBEs.

b. The following are examples of actions that shall not be used as justification by the contractor for failure to meet the DBE contract goal:

(1) Failure to contract with a DBE solely because the DBE was unable to provide performance and/or payment bonds.

(2) Rejection of a DBE bid or quotation based on price alone.

(3) Equipment idled by contract with a DBE.

(4) Failure to contract with a DBE because the DBE will not agree to perform items of work at the unit price bid.

(5) Rejection of a DBE because of its union or non-union status.

(6) Failure to contract with a DBE because the Contractor normally would perform all or most of the work in the contract.

(7) Restricting efforts to mailing of letters.

I. ACTIONS TO BE TAKEN BY THE DEPARTMENT BEFORE AWARD

1. If the apparent low bidder meets the DBE contract goal and all other contract requirements, the Department will award to that bidder. NOTE: If any DBE listed is not certified and/or pre-qualified or approved, if required, at the time the Department desires to award a contract, the Department will issue a conditional award to the apparent low bidder.

2. If the apparent low bidder fails to meet the DBE contract goal, the Review Committee shall review the apparent low bidder's DBE data and good faith efforts to meet the DBE contract goal. If the good faith efforts are deemed satisfactory, the Review Committee will recommend award.

3. If the Review Committee cannot accept the contractor's good faith efforts, the bid will be considered non-responsive and the Department will notify the apparent low bidder that its bid is being rejected. The Department will then notify by telephone the next lowest responsible bidder on the project to submit the information outlined in Section H. Either deposit the information in Room 1109 Transportation and Safety Building by 3:00 P.M. Prevailing Local Time of the fourteenth (14) calendar day after notification or mail it to the Pennsylvania Department of Transportation, P.O. Box 2827, Harrisburg, PA 17105 so that it is received in Room 1109 Transportation and Safety Building by 3:00 P.M. Prevailing Local Time of the fourteenth (14) calendar day after notification. Its proposal and all appropriate DBE data will be submitted to the Department's Review Committee for evaluation. If the Department's Review Committee, during the review of the bidder's DBE data and good faith efforts information, has questions, the committee will contact the bidder for clarification.

J. ACTION TO BE TAKEN BY THE DEPARTMENT AFTER AWARD

1. To ensure that all obligations under this contract awarded to DBEs are met, the Department will review the contractor's DBE involvement efforts during the performance of the contract.

K. ACTION REQUIRED BY CONTRACTOR AFTER AWARD

1. Firms listed on Attachment A shall not commence work until they are certified and prequalified or approved, if required.

2. If, for any reason during the life of the contract, it is necessary to replace a DBE that is unable to perform successfully, the contractor will make a good faith effort to replace that DBE with another DBE. The following procedures are required in compliance with the above.

a. Notify the District Engineer immediately in writing of the DBE's inability to perform and the intent to obtain a substitute DBE.

b. Contact available DBE referral sources and individual qualified DBEs in an effort to recontract the work of the defaulting firm with another DBE.

c. Provide the District Engineer with a revised Attachment A and additional good faith effort information when the original Attachment A amount is not met.

The Contractor's good faith efforts information will be forwarded to the Department's Review Committee for evaluation. If the Department's Review Committee, during the review of the Contractor's good faith efforts information, has questions, the committee will contact the Contractor for clarification.

3. Bring to the attention of the Department in writing any situation in which regularly scheduled progress payments are not made to DBE subcontractors, suppliers, or service agencies.

4. Records and Reports.

a. Keep such records as are necessary to determine compliance with its Disadvantaged Business Enterprises Utilization obligations. Design these records to indicate:

(1) The number of disadvantaged and non-disadvantaged subcontractors, suppliers, and service agencies and the type of work or materials or services performed on or incorporated in this project.

(2) The progress and efforts made in seeking out disadvantaged contractor organizations and individual disadvantaged contractors for work on this project anytime a subcontractor, supplier, or service contract is contemplated during the life of this contract.

(3) Documentation of all correspondence, contacts, telephone calls, etc., to obtain the services of DBEs on this project.

b. Submit reports as required by the Pennsylvania Department of Transportation, but at least on a monthly basis, of those contracts and other business executed with DBEs with respect to the records referred to in paragraph 5.a. above in such form and manner as prescribed by the Pennsylvania Department of Transportation. The monthly reports shall be submitted to the Inspector-in-Charge within five (5) working days following the end of the month and are to contain:

(1) Number of contracts awarded to DBE/WBEs noting type of work and amounts of each contract awarded to each firm. Attach either a copy of signed contract or a certification attesting to the actual

award amount.

(2) The amounts paid to each DBE/WBE during the month and submit paid invoices or a certification attesting to the actual amount paid to each firm.

(3) A timetable for all subsequent pending awards to disadvantaged firms indicating type of work and estimated award amount for each.

(4) Upon completion of the individual disadvantaged firm's work, submit paid invoices or a certification attesting to the actual amount paid to each firm. In the event the actual amount paid is less than the award amount a complete explanation of the difference is required.

e. Maintain all such records for a period of three (3) years following acceptance of final payment. Make these records available for inspection by the Pennsylvania Department of Transportation and the Federal Highway Administration.

Attach. # 2

joint partners. Control shall also be real, substantial and continuing, not pro forma. Control shall include the power to direct or cause the direction of the management and policies of the business and to make the day-to-day as well as the major decisions on matters of policy, management and operations. Control shall be exemplified by possessing the requisite knowledge and expertise to run the particular business and control shall not include simple majority or absentee ownership. Further, control by economically disadvantaged individuals or women shall not be deemed to exist in any case where any non-minority owner or employee of the business is disproportionately responsible for the operation of the firm.

Q. ***When you say "public body," what are you referring to?***

A. A public body is a department, bureau, agency, commission or other instrumentality of the Commonwealth, political subdivision, municipal authority or any wholly- or partially-owned government corporation which enters into contracts. Examples of public bodies include: Transit Authorities operating in a city, county, or state, cities with minority goal programs, airport authorities, etc.

Q. ***What is the penalty for commission of a third degree felony?***

A. A third degree felony is punishable by up to and not more than seven years in jail, and including a fine of not more than $15,000.

Q. ***If I suspect someone of fraudulently obtaining certification as minority or women-owned business, who should I contact?***

A. If you suspect that someone has fraudulently obtained minority or women-owned business certification, contact:

1) The Office of the Attorney General,
   Strawberry Square
   Harrisburg, PA 17120
   (717) 787-3391.
2) Pennsylvania Department of Transportation
   Office of the Inspector General
   Transportation and Safety Building
   Harrisburg, PA 17120.
3) Your local District Attorney.

Minority and Woman-owned Business Protection Legislation

Dear Business Owner:

As a minority or a woman owning a business in the Commonwealth of Pennsylvania, you are now protected under Act 230 signed into law by Governor Thornburgh on December 21, 1984. This law that I have authored now protects you against persons who fraudulently would obtain certification or falsely represent themselves in an effort to receive contracts earmarked for minority or woman-owned businesses in the Commonwealth.

This brochure is being made available so that you may better understand this law and the penalties for violations.

Sincerely,

Gordon J. Linton

Gordon J. Linton,
State Representative
200th Legislative District

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

Deception relating to certification of minority business enterprise or women's business enterprise.

(A) Offense defined — A person commits a felony of the third degree if, in the course of business, he:

(1) Fraudulently obtains, or retains certification as a minority business enterprise or a women's business enterprise.

(2) Willfully makes a false statement, whether by affidavit, report or other representation, to an official or employee of a public body for the purpose of influencing the certification or denial of certification of any business entity as a minority or women's business enterprise.

(3) Willfully obstructs or impedes any agency official or employee who is investigating the qualifications of a business entity which has requested certification as a minority business or a women's business enterprise.

(4) Fraudulently obtains public monies reserved for or allocated or available to minority business or women's business enterprise.

Q. ***What is a "minority" and a "women-owned business enterprise?"***

A. A minority business enterprise is a small business concern which is 1) a sole proprietorship, owned and controlled by socially and economically disadvantaged individual, 2) a partnership or a joint venture controlled by a socially and economically disadvantaged individuals in which 51% of the beneficial ownership interest is held by socially and economically disadvantaged individuals, 3) a corporation or other entity controlled by socially and economically disadvantaged individuals in which at least 51% of the voting interest and 51% of the beneficial ownership interest are held by socially and economically disadvantaged individuals.

A "women's business enterprise" is a small business concern which is at least 51% owned and controlled by a woman, or, in the case of any publicly owned business, at least 51% of the stock of which is owned by one or more women and whose management and daily business operations are controlled by one or more of the women who own it.

Q. ***Who are "socially" and "economically disadvantaged individuals?"***

A. Socially and economically disadvantaged individuals are persons who are citizens of the United States who are Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, women and other minorities or persons found to be disadvantaged by the Small Business Administration pursuant to the Small Business Act.

Q. ***What constitutes "control" of a minority or a women-owned business enterprise?***

A. "Control" of a minority or women-owned business is defined by the Commonwealth as the exclusive or ultimate and sole control of the business including but not limited to capital investment and all the financial, property, acquisition, contract negotiation, legal matters, officer-director-employee selection and comprehensive hiring, operating responsibility, cost control matters, income and dividend matters, financial transactions and rights of other shareholders or

Attachment 4-3

REPORT TYPE: YEAR-TO-DATE
REPORT BASIS: FEDERAL FISCAL YEAR

DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: OCT.1,1984 TO SEP1.30.1985

DIST NO.	COUNTY	L.R. (SEC)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	MBE CNTR	ACTUAL DBE $	%	ACT DBE %	MBE CNTR	ACTUAL WBE $	%	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1329	LACKAWANNA	439(17M)	078-0272-007	08/15/85	09/06/85	1,577,813	1,183,360	3	157,804	10	10.0	1	109,796	2	7.0	118,353	82,347
1332	DAUPHIN	1401(26)	010-0165-002	08/15/85	09/10/85	382,955	287,216	4	38,363	10	10.0	1	10,000	2	2.6	28,772	7,500
1320	PIKE	81(21)	010-0172-018	08/15/85	09/13/85	759,796	569,847	4	77,109	10	10.2	1	17,328	2	2.3	57,092	12,996
1322	LYCOMING	201(06)	M32-L013-003	08/15/85	09/27/85	465,644	349,233	2	46,565	10	10.0	0	0	0	.0	34,924	0
1339	BEAVER	376(008)	141-0042-004	08/29/85	09/13/85	84,390	75,951	0	0	0	.0	0	0	0	.0	0	0
134A	YORK	6618(18E2)	117-4002-288	08/29/85	09/13/85	178,323	142,658	3	17,840	10	10.0	0	0	0	.0	14,272	0
1346	CAMBRIA	62(87M)	195-0049-077	08/29/85	09/16/85	880,178	836,169	1	88,702	10	10.1	1	10,000	1	1.1	84,267	9,500
1342	MCKEAN	211(A01)	116-0109-007	08/29/85	09/16/85	3,397,929	2,718,343	2	345,625	10	10.1	1	69,404	2	2.0	274,900	55,523
1341	VENANGO	A190(019)	141-0097-006	08/29/85	09/18/85	68,647	61,782	1	8,679	10	12.6	0	0	0	.0	7,811	0
1344	MONTGOMERY	178A19B(22N	A14-0249-030	08/29/85	09/18/85	216,871	216,871	1	21,695	10	10.0	1	4,641	2	2.1	21,695	4,641
1337	NORTHUMBERLAN	182(17S)	141-0005-300	08/29/85	09/20/85	66,499	59,849	2	6,376	10	9.6	0	0	0	.0	5,738	0
1345	MONTGOMERY	178(07N)	010-0249-031	08/29/85	09/20/85	444,248	333,186	1	44,564	10	10.0	1	15,157	2	3.4	33,423	11,368
1338	MERCER	258(01S)	141-P028-002	08/29/85	09/30/85	83,335	75,002	1	8,528	10	10.2	0	0	0	.0	7,675	0
1343	PHILADELPHIA	67009(40H)	010-0234-046	08/29/85	09/30/85	246,138	184,604	1	24,628	10	13.3	1	4,935	2	2.0	16,471	3,701
1347	ALLEGHENY	395(09M)	436-H005-004	08/29/85	09/30/85	1,287,702	965,777	2	155,158	12	12.0	1	26,000	2	2.0	116,369	19,500
1351	INDIANA	3211(316)	138-S001-193	09/11/85	09/30/85	18,035	16,232	0	0	0	.0	0	0	0	.0	0	0
1352C	INDIANA	3211(316)	138-0102-003	09/11/85	09/30/85	40,040	36,046	0	0	0	.0	0	0	0	.0	0	0
TOTAL						836648336	704892149	203	90319104			114	22859519			75858462	18522865

ACTUAL DBE % 10.8
ACTUAL WBE % 2.64
FEDERAL DBE % 10.8
FEDERAL WBE % 2.63

REPORT NO. 2
TOTAL PROJECTS = 527
OCTOBER 1, 1985 - 9:54 AM
PREPARED BY: JOHN L.BLAICH
PHONE: 783-6519

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF TRANSPORTATION

October 7, 1985

Mr. Louis M Papet, Division Administrator
U.S. Department of Transportation
Federal Highway Administration, Region 3
P.O. Box 1086
Harrisburg, Pennsylvania 17108

Attention: Mr. Robert K. Burk

Dear Mr. Papet:

The attached DBE and WBE Status Reports are submitted in accordance with your letter of November 4, 1983.

Sincerely,

Howard Yerusalim, PE
Deputy Secretary for Administration

Attachment

FEDERAL HIGHWAY ADMINISTRATION, REGION 3
Dr Office of Engineering and Operations
(2 copies)

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
From B.E.O. DBE Division

Disadvantaged Business Enterprise (DBE) Status Report

Month Y 1985	Monthly Totals			Cumulative Totals for Fiscal Year		
	Federal-aid Share of Contracts Awarded (1)	Federal-aid Share of "Committed Amount" to DBE Firms (2)	Percentage	Federal-aid Share of Contracts Awarded (1)	Federal-aid Share of "Committed Amount" to DBE Firms (2)	Percent
ctober	$ 37,086,736	$ 4,634,406	12.50	$ 37,086,736	$ 4,634,406	12.5
ovember	26,873,761	3,515,567	13.08	63,960,497	8,149,973	12.7
ecember	57,717,969	6,984,844	12.10	121,677,466	15,134,817	12.4
anuary	147,816,146	15,997,683	10.82	269,493,612	31,132,500	11.5
ebruary	19,513,383	2,004,666	10.27	289,007,695	33,137,166	11.4
arch	44,946,345	5,806,980	12.92	333,953,040	38,944,146	11.6
pril	81,572,781	8,557,047	10.49	415,526,821	47,501,193	11.4
ay	62,105,501	7,147,281	11.50	477,631,322	54,648,474	11.4
une	76,393,798	8,274,163	10.83	554,025,520	62,922,637	11.4
uly	73,463,651	8,918,983	12.14	627,489,171	71,841,620	11.4
ugust	108,679,935	10,181,879	9.36	736,169,106	82,023,499	11.1
eptember	22,909,672	3,049,338	13.31	759,078,778	85,072,837	11.2

(1) Total a nt (nearest dollar) of the Federal share of ll Federal-aid Highway funded contracts awarded during month.

(2) "Committed Amount" includes the total amount of the Federal share of all Federal-aid contracts awarded to DBE

FEDERAL HIGHWAY ADMINISTRATION, REGION 3
To: Office of Engineering and Operations
(2 copies)

PENNSYLVANIA DEPARTMENT OF TRANSPORTATION
From: B.E.O. DBE Division

Disadvantaged Business Enterprise (DBE) Status Report

Month FY 1985	Monthly Totals			Cumulative Totals for Fiscal Year		
	Federal-aid Share of Contracts Awarded (1)	Federal-aid Share of "Committed Amount" to DBE Firms (2)	Percentage	Federal-aid Share of Contracts Awarded (1)	Federal-aid Share of "Committed Amount" to DBE Firms (2)	Per
October	$ 37,086,736	$ 636,518	1.72	$ 37,086,736	$ 636,518	1.7
November	26,873,761	780,869	2.91	63,960,497	1,417,387	2.2
December	57,717,069	1,155,320	2.00	121,677,566	2,572,707	2.1
January	147,816,146	4,641,668	3.14	269,493,712	7,214,375	2.7
February	19,513,383	382,183	1.96	289,007,095	7,596,558	2.6
March	44,946,345	1,155,024	2.57	333,953,440	8,751,582	2.6
April	81,572,781	2,366,245	2.90	415,526,221	11,117,827	2.6
May	62,105,501	949,231	1.52	477,631,722	12,067,058	2.6
June	76,393,798	1,911,115	2.50	554,025,520	13,978,173	2.5
July	73,463,651	1,717,644	2.33	627,489,171	15,695,817	2.5
August	108,679,935	2,226,794	2.04	736,169,106	17,922,611	2.4
September	22,909,672	763,265	3.33	759,078,778	18,685,876	2.4

(1) Total amount (nearest dollar) of the Federal share all Federal-aid Highway funded contracts awarded dur month.

(2) Total amount of the Federal share of all Federal-aid contracts awarded to

REPORT TYPE: MONTHLY
REPORT BASIS: SEPT.1ST TO SEPT.30TH

DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: SEPT 1,1985 TO SEPT.30,1985

SPECIAL MONTHLY REPORT WITH APPENDED
SUPPLEMENTAL LISTING OF AWARDED PROJECTS

CTRL NO.	COUNTY	L.R. (SEC)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	NUM DBE CNTR	ACTUAL DBE $	G DBE %	ACT DBE %	NUM WBE CNTR	ACTUAL WBE $	G WBE %	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1250	LACKAWANNA	MAPLE AVE.BG	118-K144-002	06/27/85	09/10/85	121,722	97,378	1	6,770	10	5.6	0	0	0	.0	5,416	0
1309	BUCKS	1808(848)	044-0952-156	07/25/85	09/04/85	4,699,122	4,229,210	4	644,076	13	13.7	1	94,000	2	2.0	579,668	84,600
1302	DAUPHIN	22017(716)	M36-0146-001	07/25/85	09/10/85	650,000	487,500	3	72,578	10	11.2	2	10,878	2	1.7	54,434	8,159
1311	UNION	BROWN ST.	117-4002-296	07/25/85	09/19/85	195,022	156,018	1	22,350	10	11.5	1	6,391	2	3.3	17,880	5,113
1308	FOREST	380(034)	016-0101-008	07/25/85	09/23/85	617,896	463,422	3	61,997	10	10.0	1	6,200	1	1.0	46,498	4,650
1313	COLUMBIA	TWP.RD.466	136-5001-243	07/25/85	09/30/85	48,957	44,061	0	0	0	.0	0	0	0	.0	0	0
1331	BERKS	4601A03)	116-0363-002	08/15/85	09/03/85	135,283	108,226	1	36,325	10	26.9	0	0	0	.0	29,060	0
1333	LUZERNE	40084(001)	117-4001-297	08/15/85	09/03/85	181,219	144,975	1	35,325	10	19.5	0	0	0	.0	28,260	0
1329	LACKAWANNA	439(17M)	075-0272-007	08/15/85	09/06/85	1,577,813	1,183,360	1	157,894	10	10.0	1	109,796	2	7.0	118,353	82,367

DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: SEPT.1,1985 TO SEPT.30,1985

SPECIAL MONTHLY REPORT WITH APPENDED
SUPPLEMENTAL LISTING OF AWARDED PROJECTS

CTRL NO	COUNTY	L.M. (SEC)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	NUM DBE CNTR	ACTUAL DBE $	G DBE %	ACT DBE %	NUM WBE CNTR	ACTUAL WBE $	G WBE %	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1327	DAUPHIN	1401(24)	010-0165-002	08/15/85	09/10/85	382,959	287,216	4	38,383	10	10.0	1	10,000	2	2.6	28,772	7,500
1328	PIKE	812(4)	010-0172-018	08/15/85	09/13/85	759,795	569,847	4	77,189	10	10.2	1	17,328	2	2.3	57,892	12,996
1329	LYCOMING	201(6&11)	W32-1013-005	08/15/85	09/27/85	465,644	349,233	2	46,565	10	10.0	0	0	0	.0	34,924	0
1335	BERKS	347(10&11)	141-0042-004	08/29/85	09/13/85	84,390	75,951	0	0	0	.0	0	0	0	.0	0	0
1340	YORK	661(7&8&12)	117-4002-288	08/29/85	09/11/85	178,325	142,658	3	17,840	10	10.0	0	0	0	.0	14,272	0
1341	CAMBRIA	62(8&9)	195-0049-077	08/29/85	09/16/85	880,178	636,169	1	88,702	10	10.1	1	10,000	1	1.1	64,267	9,500
1342	MCKEAN	211(A&1)	138-0199-007	08/29/85	09/16/85	3,397,429	2,718,343	2	343,635	10	10.1	1	69,404	2	2.0	274,908	55,523
1343	LEHIGH	A190(15)	141-0097-056	08/29/85	09/18/85	68,647	61,782	1	8,679	10	12.6	0	0	0	.0	7,811	0
1344	MONTGOMERY	178(198)2CN	A14-0249-030	08/29/85	09/18/85	216,871	216,871	1	21,695	10	10.0	1	4,641	2	2.1	21,695	4,641

REPORT TYPE: MONTHLY
REPORT BASIS: SEPT.1ST TO SEPT.30TH

DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: SEPT.1,1985 TO SEPT.30,1985

SPECIAL MONTHLY REPORT WITH APPENDED
SUPPLEMENTAL LISTING OF AWARDED PROJECTS

CTRL NO.	COUNTY	L.R. (SEC)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	NUM DBE CNTR	ACTUAL DBE $	G DBE %	ACT DBE %	NUM WBE CNTR	ACTUAL WBE $	G WBE %	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1337	NORTHUMBERLAN	182(17S)	141-0005-380	08/29/85	09/20/85	66,499	59,849	2	6,376	10	9.6	0	0	0	.0	5,738	0
1345	MONTGOMERY	178(87N)	010-0249-031	08/29/85	09/20/85	444,248	333,186	1	44,564	10	10.0	1	15,157	2	3.4	33,423	11,368
1338	MERCER	238(81S)	141-R028-002	08/29/85	09/30/85	83,335	75,002	1	8,526	10	10.2	0	0	0	.0	7,675	0
1343	PHILADELPHIA	67009(40N)	010-0234-046	08/29/85	09/30/85	246,138	184,604	1	24,628	10	10.0	1	4,935	2	2.0	18,471	3,701
1347	ALLEGHENY	395(09M)	M36-H805-004	08/29/85	09/30/85	1,287,702	965,777	2	155,158	12	12.0	1	26,000	2	2.0	116,369	19,500
1351	INDIANA	32112(316)	138-5001-193	09/11/85	09/30/85	18,035	16,232	0	0	0	.0	0	0	0	.0	0	0
1352C	INDIANA	32112(316)	138-0102-003	09/11/85	09/30/85	40,940	36,846	0	0	0	.0	0	0	0	.0	0	0
	TOTAL 0*					16,848,664	13,843,716	42	1919137			14	364,730			1565778	309,598

SPECIAL MONTHLY REPORT WITH APPENDED
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CTRL NO.	COUNTY	L.R. (SEC)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	NUM DBE CNTR	ACTUAL DBE $	G DBE %	ACT DBE %	NUM WBE CNTR	ACTUAL WBE $	G WBE %	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1316	PHILADELPHIA	FALLS BRDG.	M36-0079-002	08/01/85	08/29/85	1,247,000	935,250	1	190,000	15	15.2	1	400,000	10	32.1	142,500	300,000
TOTAL 985*						1,247,000	935,250	1	190,000			1	400,000			142,500	300,000
GRAND TOTAL						18,095,664	14,778,966	43	2109137			15	784,730			1728276	609,598

ACTUAL DBE % 11.7
ACTUAL WBE % 4.34
FEDERAL DBE % 11.7
FEDERAL WBE % 4.12

NOTE: THE SUPPLEMENTAL LIST OF PROJECTS ABOVE
(WITH A SUBTOTAL INDICATED AS "TOTAL 985 ")
ARE THOSE NOT PREVIOUSLY APPEARING ON A MONTHLY REPORT

REPORT NO. 4
TOTAL PROJECTS = 26
OCTOBER 1, 1985 - 9:48 AM
PREPARED BY JOHN F.BLANCH
PHONE: 783-6414

REPORT TYPE: YEAR-TO-DATE
REPORT BASIS: FEDERAL FISCAL YEAR

DBE/WBE DATA
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0729	ERIE	STATE ST.	W33-C005-012	07/23/84	10/02/84	242,971	242,971	0	9,912	4	4.1	0	7,080	2	2.9	9,912	7,080
0730C	ERIE	SASSAFRAS	W33-C005-013	07/23/84	10/02/84	271,484	271,484	0	11,088	4	4.1	0	7,920	2	2.9	11,088	7,920
0795	ERIE	FRENCH ST.	W33-C053-002	07/23/84	10/09/84	4,500	4,500	0	0	6	.0	0	0	0	.0	0	0
0733	PHILADELPHIA	4TH HWY DIS	W36-G005-221	07/26/84	11/05/84	1,935,434	1,451,576	0	296,000	15	15.3	0	179,000	2	9.2	222,000	134,250
0727	LACKAWANNA	1001(B2A)	044-0813-136	08/16/84	10/03/84	9,832,200	8,848,980	0	984,769	10	10.0	8	196,780	2	2.0	886,292	177,102
0797	PHILADELPHIA	RIS'G SN AV	W36-G005-175	08/22/84	10/30/84	1,174,500	880,875	0	176,000	15	15.0	0	117,500	10	10.0	132,000	88,125
0796	PHILADELPHIA	FRONT ST.	118-G005-001	08/28/84	11/16/84	1,355,537	1,084,430	0	210,000	10	15.5	0	28,000	2	2.1	168,000	22,400
0744	NORTHAMPTON	1098(TW3)	010-0229-007	08/30/84	10/02/84	209,642	157,232	0	0	0	.0	0	0	0	.0	0	0
0745C	NORTHAMPTON	333(TW485)	044-0831-044	08/30/84	10/02/84	1,210,881	1,089,793	0	0	0	.0	0	0	0	.0	0	0
0737	WASHINGTON	268(098)ETC	010-0005-241	08/30/84	10/10/84	931,687	698,765	0	157,050	10	16.9	0	19,000	2	2.0	117,788	14,250
0738	LACKA/LUZ.	6(465)ETC.	A14-0005-245	08/30/84	11/01/84	48,784	48,784	0	6,601	10	13.5	0	0	0	.0	6,601	0
0736	LACKAWANNA	952(065)ETC	141-K005-014	08/30/84	11/07/84	176,763	159,087	0	20,357	10	11.5	0	0	0	.0	18,321	0
0752	FOREST	27009(01M)	075-0074-004	09/13/84	10/12/84	124,799	93,599	0	53,113	10	42.6	0	0	0	.0	39,835	0
0754	LUZERNE	5(050)	118-0178-027	09/13/84	10/15/84	1,068,029	854,423	0	108,784	10	10.2	0	25,967	2	2.4	87,027	20,774
0755	DELAWARE	130(ZAN)	A14-0268-038	09/13/84	10/15/84	186,984	186,984	0	26,208	10	14.0	0	0	0	.0	26,208	0
0753	LACKAWANNA	5(55M)	W36-K110-001	09/13/84	10/16/84	1,003,866	752,915	0	100,579	10	10.0	0	25,000	2	2.5	75,434	18,750
0757	BUCKS	362(M00)	010-0290-009	09/13/84	10/16/84	955,904	716,928	0	114,754	12	12.0	0	20,072	2	2.1	86,065	15,054

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0757C	BUCKS	362(M00)	M36-G151-002	09/13/84	10/16/84	379,583	284,687	0	45,517	12	12.0	0	7,962	2	2.1	34,138	5,972
0756	DELAWARE	23114(A01)	M36-G281-002	09/13/84	10/29/84	1,337,168	1,002,876	0	163,840	12	12.3	0	29,451	2	2.2	122,880	22,088
0751	BERKS	WELSH ROAD	M32-J035-003	09/13/84	11/30/84	268,624	201,468	0	24,855	9	9.3	0	0	0	.0	18,641	0
0750	LACKAWANNA	9(42M)ETC.	010-0005-246	09/13/84	12/19/84	1,491,429	1,118,572	0	153,381	10	10.3	0	52,352	2	3.5	115,036	39,264
0764	BEAVER	77(C26)	119-0017-045	09/27/84	10/19/84	9,773,791	7,819,033	0	1484464	15	15.2	0	451,589	3	4.6	1187571	361,271
0775	DAUPHIN	22032(B03)	117-4002-233	09/27/84	10/19/84	226,361	181,089	0	15,930	7	7.0	0	0	0	.0	12,744	0
0776	LYCOMING	41054(010)	117-4002-236	09/27/84	10/25/84	131,726	105,381	0	24,411	7	18.5	0	0	0	.0	19,529	0
0774	TIOGA	TWP.RD.312	117-4002-232	09/27/84	10/29/84	625,827	500,662	0	115,200	8	18.4	0	11,282	2	1.8	92,160	9,026
0763	WASH-WEST	247SP.A(B10	M32-P014-001	09/27/84	10/30/84	7,680,941	5,760,706	0	774,319	10	10.1	0	233,603	3	3.0	580,739	175,202
0777	SULLIVAN	56023(007)	117-4002-238	09/27/84	10/30/84	142,568	114,054	0	28,943	6	20.3	0	0	0	.0	23,154	0
0760	PHILADELPHIA	67047(04N)	M37-G005-052	09/27/84	10/31/84	254,946	254,946	0	0	0	.0	0	0	0	.0	0	0
0761	GREENE	112(03R)	010-0002-024	09/27/84	10/31/84	731,344	548,508	0	74,269	10	10.2	0	15,000	2	2.1	55,702	11,253
0762	GREENE	268(10R)	010-0012-001	09/27/84	10/31/84	933,706	700,280	0	125,827	10	13.3	0	18,675	2	2.0	92,870	14,006
0765	LANCASTER	36070(B05)	118-0036-013	09/27/84	10/31/84	496,463	397,170	0	55,973	10	11.3	0	10,492	2	2.1	44,778	8,394
0767	CENTRE	56(274)	010-0129-016	09/27/84	10/31/84	28,819	21,614	0	0	0	.0	0	0	0	.0	0	0
0768	SNYDER	25(31S)	141-0131-062	09/27/84	10/31/84	98,778	88,900	0	11,364	10	11.5	0	0	0	.0	10,228	0
0769	JEFFERSON	521(004)	118-0152-002	09/27/84	10/31/84	1,346,054	1,076,843	0	135,979	10	10.1	0	38,000	2	2.8	108,783	30,400

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0772	CENT-CLEAR	1009(B03)	044-0802-607	09/27/84	11/05/84	420,026	378,023	0	0	0	.0	0	0	0	.0	0	0
0771	BRADFORD	PACKER AVE.	118-0474-002	09/27/84	11/07/84	1,315,141	1,052,113	0	123,937	7	9.4	0	26,500	2	2.0	99,150	21,200
0773	CHESTER	TWP.RD.222	117-4002-214	09/27/84	11/08/84	246,869	197,495	0	30,000	10	12.2	0	0	0	.0	24,000	0
0790	BLAIR	1061(B2A)	228-0117-060	10/11/84	10/17/84	4,911,081	4,911,081	0	491,769	10	10.0	0	99,250	2	2.0	491,769	99,250
0794	ERIE	25052(A00)	117-4002-237	10/11/84	11/01/84	197,942	158,354	0	20,023	10	10.1	0	4,921	2	2.5	16,018	3,937
0785	ALLEGHENY	228(062)	W37-H054-004	10/11/84	11/09/84	61,185	61,185	0	0	0	.0	0	0	0	.0	0	0
0792	ALLEGHENY	802(14)	W37-H227-003	10/11/84	11/09/84	154,392	154,392	0	0	0	.0	0	0	0	.0	0	0
0793	WASHINGTON	62040(A10)	118-0713-005	10/11/84	11/09/84	325,563	260,450	0	39,162	12	12.0	0	6,600	2	2.0	31,330	5,280
0778	CUMBERLAND	34(664)	A14-0005-236	10/11/84	11/14/84	121,158	121,158	0	0	0	.0	0	0	0	.0	0	0
0779C	CUMBERLAND	34(664)	A14-0148-008	10/11/84	11/14/84	15,414	15,414	0	0	0	.0	0	0	0	.0	0	0
0784	INDIANA	68(296)	A85-0043-023	10/11/84	11/28/84	1,318,021	1,120,318	0	158,187	12	12.0	0	26,526	2	2.0	134,459	22,547
0780	INDIANA	228(019)	010-0033-019	10/11/84	12/04/84	535,232	401,424	0	71,293	12	13.3	0	58,816	2	11.0	53,470	44,112
0781C	INDIANA	228(303)	010-0033-020	10/11/84	12/04/84	291,257	218,443	0	38,864	12	13.3	0	32,063	2	11.0	29,148	24,047
0782C	INDIANA	228(019)	A14-0033-021	10/11/84	12/04/84	102,150	102,150	0	13,615	12	13.3	0	11,232	2	11.0	13,615	11,232
0786	ERIE	495(01N)	W33-C056-004	10/11/84	12/04/84	85,547	85,547	0	8,573	10	10.0	0	1,772	2	2.1	8,573	1,772
0787C	ERIE	495(01N)	W32-C056-005	10/11/84	12/04/84	112,453	84,340	0	11,275	10	10.0	0	2,331	2	2.1	8,455	1,748
0791	BEDFORD	49(20M)	010-0127-002	10/11/84	12/07/84	505,585	379,189	0	45,711	9	9.0	0	10,200	2	2.0	34,283	7,650

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0803	LANCASTER	36184(R10)	138-F024-006	10/25/84	11/20/84	2,324,094	2,091,685	0	455,347	10	19.6	0	46,542	2	2.0	409,812	41,888
0804C	LANCASTER	36184(727)	W32-F024-007	10/25/84	11/20/84	369,173	276,880	0	72,286	10	19.6	0	7,389	2	2.0	54,215	5,542
0798	DISTRICT 9-0	VARIOUS RTE	141-0003-234	10/25/84	11/21/84	179,972	161,975	0	0	0	.0	0	0	0	.0	0	0
0800	WASHINGTON	108(06R)	010-0013-016	10/25/84	11/21/84	969,967	727,475	0	100,673	10	10.4	0	29,389	3	3.0	75,505	22,042
0810	WARREN	93(A00)	114-0099-015	10/25/84	11/21/84	4,270,745	3,416,596	0	427,531	10	10.0	0	90,000	2	2.1	342,025	72,000
0815	SCHUYLKILL	185(16M)	010-0210-046	10/25/84	11/21/84	194,820	146,115	0	26,645	10	13.7	0	10,800	2	5.5	19,984	8,160
0818	MONTGOMERY	158(M01)	010-0243-009	10/25/84	11/27/84	1,145,621	859,216	0	176,511	13	15.4	0	23,029	2	2.0	132,383	17,272
0819	MONTGOMERY	158(B02)	138-0243-010	10/25/84	11/27/84	314,974	283,477	0	47,735	15	15.2	0	9,530	3	3.0	42,962	8,577
0801	BUTLER	73(029)	010-0023-042	10/25/84	11/30/84	2,209,214	1,656,911	0	222,689	10	10.1	0	72,150	3	3.3	167,017	54,113
0802C	BUTLER	73(029)	A14-0023-043	10/25/84	11/30/84	86,552	86,552	0	8,796	10	10.2	0	2,850	3	3.3	8,796	2,850
0805	MERCER	74 PAR.(01N	010-0056-006	10/25/84	12/04/84	142,456	106,842	0	14,258	10	10.0	0	0	0	.0	10,694	0
0806C	MERCER	74 PAR.(01N	A14-0056-007	10/25/84	12/04/84	56,171	56,171	0	5,628	10	10.0	0	0	0	.0	5,628	0
0807	TIOGA	212(011)	114-0066-105	10/25/84	12/04/84	122,266	97,813	0	8,004	6	6.5	0	5,839	2	4.8	6,403	4,671
0808C	TIOGA	212(018)	114-0066-106	10/25/84	12/04/84	145,904	116,723	0	9,536	6	6.5	0	6,957	2	4.8	7,629	5,566
0809C	TIOGA	212(017)	114-0066-107	10/25/84	12/04/84	383,153	306,522	0	25,033	6	6.5	0	18,263	2	4.8	20,026	14,610
0814	BERKS	157(37M)	010-0190-015	10/25/84	12/04/84	180,274	135,206	0	25,246	10	14.0	0	0	0	.0	18,935	0
0816	SUSQUE-WYOM.	12(22M&23M)	010-0223-022	10/25/84	12/04/84	945,368	709,026	0	95,368	10	10.1	0	21,456	2	2.3	71,526	16,092

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0817	PHILA-MONT.	67009(2BN)	101-0234-036	10/25/84	12/04/84	864,517	648,388	0	134,600	15	15.6	0	34,854	4	4.0	100,950	26,141
0811	CENTRE	219(A10)	118-0133-018	10/25/84	12/07/84	327,668	262,134	0	16,456	5	5.0	0	0	0	.0	13,165	0
0812	LACKAWANNA	35098(011)	W36-K137-005	10/25/84	12/07/84	588,987	441,740	0	45,812	7	7.8	0	36,608	2	6.2	34,359	27,456
0820	CLEARFIELD	17091(A01)	117-4002-252	10/25/84	12/07/84	199,835	159,868	0	20,000	10	10.0	0	0	0	.0	16,000	0
0813	DAUPHIN	140(6758676	A14-0184-039	10/25/84	12/14/84	141,829	141,829	0	0	0	.0	0	0	0	.0	0	0
0799	PHILADELPHIA	67025(B00)	W36-G009-006	10/25/84	12/24/84	11,111,379	8,333,534	0	1473951	12	13.3	0	222,537	2	2.0	1105463	166,903
0822	TIOGA	1036(E60)	641-0131-064	11/01/84	12/05/84	21,401,924	17,121,539	0	2172048	10	10.1	0	436,785	2	2.0	1737638	349,428
0821	CENTRE	2195P(A01)	118-0111-038	11/01/84	12/07/84	590,582	472,466	0	51,205	8	8.7	0	12,395	2	2.1	40,964	9,916
0955	ALLEGHENY	BLMFLD BG(4	119-H014-003	11/01/84	02/01/85	13,956,900	11,165,520	0	2115550	15	15.2	0	430,000	2	3.1	1692440	344,000
0974	ALLEGHENY	FT.COUCH RD	W36-H491-002	11/07/84	02/04/85	3,584,312	2,688,234	0	0	0	.0	0	0	0	.0	0	0
0837	LYCOMING	18SP.(16N)	A14-0131-063	11/08/84	12/04/84	13,090	13,090	0	1,601	10	12.2	0	0	0	.0	1,601	0
0838C	LYCOMING	18SP.(16N)	W33-L005-002	11/08/84	12/04/84	35,827	35,827	0	4,375	10	12.2	0	0	0	.0	4,375	0
0839C	LYCOMING	23(35N)	W33-L016-007	11/08/84	12/04/84	90,335	90,335	0	11,049	10	12.2	0	0	0	.0	11,049	0
0853	WESTMORELAND	64104(C10)	117-4002-265	11/08/84	12/04/84	498,841	399,073	0	49,884	10	10.0	0	9,977	2	2.0	39,907	7,982
0840	BERKS	149(25M)	010-0170-029	11/08/84	12/07/84	586,476	439,857	0	0	0	.0	0	0	0	.0	0	0
0844	LEBANON	A1368(311)	141-0501-002	11/08/84	12/07/84	194,774	175,297	0	23,534	10	12.1	0	0	0	.0	21,181	0
0829	MERCER	694(81M)	075-0017-003	11/08/84	12/10/84	112,164	84,123	0	12,037	10	10.7	0	0	0	.0	9,028	0

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0830	LAWRENCE	77(A00)	114-0017-054	11/08/84	12/10/84	1,562,008	1,249,606	0	163,556	10	10.5	0	47,537	3	3.0	130,845	38,030
0831	ALLEGHENY	736(45M)	010-0019-015	11/08/84	12/10/84	259,454	194,591	0	28,460	8	11.0	0	4,665	2	1.8	21,345	3,499
0841	LUZERNE	4(41M)	010-0178-029	11/08/84	12/10/84	2,197,670	1,648,253	0	179,670	8	8.2	0	69,953	3	3.2	134,753	52,465
0842	BERKS	157(36M)	010-0190-014	11/08/84	12/10/84	521,845	391,384	0	36,651	7	7.0	0	11,120	2	2.1	27,488	8,340
0843	CHESTER	15007(10B)	138-0408-009	11/08/84	12/10/84	310,231	279,208	0	0	0	.0	0	0	0	.0	0	0
0850	YORK	66050(303)	680-4001-043	11/08/84	12/10/84	33,219	24,914	0	6,520	12	19.6	0	719	2	2.2	4,890	539
0851C	YORK	66094(B03)	118-N003-004	11/08/84	12/10/84	407,548	326,038	0	80,417	12	19.7	0	8,874	2	2.2	64,334	7,099
0852	MERCER	43004(01M)	680-4001-100	11/08/84	12/10/84	113,528	85,146	0	14,610	10	12.9	0	0	0	.0	10,958	0
0835	CAMERON	277(A01)	118-0105-008	11/08/84	12/11/84	458,605	366,884	0	55,130	8	12.0	0	18,806	2	4.1	44,104	15,045
0833	ERIE	295(04M)	010-0059-033	11/08/84	12/19/84	287,233	215,425	0	36,205	10	12.6	0	5,700	2	2.0	27,154	4,275
0846	LACK-WAYNE	1012(A17)	042-0841-074	11/08/84	12/19/84	255,199	229,679	0	0	0	.0	0	0	0	.0	0	0
0847C	LACKAWANNA	790(A15)	044-0813-138	11/08/84	12/19/84	1,517,568	1,365,811	0	0	0	.0	0	0	0	.0	0	0
0848C	LACKAWANNA	1002(A15)	042-3801-047	11/08/84	12/19/84	655,943	590,349	0	0	0	.0	0	0	0	.0	0	0
0849	ALLEGHENY	1021(3A)	042-2792-093	11/08/84	12/19/84	5,383,476	4,845,128	0	811,277	15	15.1	0	162,000	3	3.0	730,149	145,800
0834	LUZERNE	515(17S)	141-K076-007	11/08/84	01/03/85	253,694	228,325	0	25,390	10	10.0	0	46,783	3	18.4	22,851	42,105
0836	HUNTINGDON	121(02B)	010-0125-011	11/08/84	01/16/85	1,238,995	929,246	0	149,679	12	12.1	0	24,700	2	2.0	112,259	18,585
0953	ALLEGHENY	SUTER.BRDG.	075-0648-007	12/05/84	01/31/85	3,479,693	2,609,770	0	452,400	13	13.0	0	70,100	2	2.0	339,300	52,575

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0855	FAYETTE	116(05R)	010-0003-086	12/06/84	01/07/85	1,034,877	776,158	0	126,045	12	12.2	0	20,700	2	2.0	94,534	15,525
0864	CRAWFORD	89(05M)	010-0073-020	12/06/84	01/07/85	200,091	150,068	0	20,070	10	10.0	0	4,006	2	2.0	15,053	3,005
0865C	CRAWFORD	89(06M)	010-0073-021	12/06/84	01/07/85	191,088	143,316	0	19,130	10	10.0	0	3,819	2	2.0	14,348	2,864
0869	LANCASTER	148(12S)	141-0166-011	12/06/84	01/07/85	123,937	111,588	0	6,280	5	5.1	0	0	0	.0	5,652	0
0874	BLAIR	286(27M)	075-0534-009	12/06/84	01/07/85	261,279	195,959	0	18,541	7	7.1	0	5,524	2	2.1	13,906	4,143
0875C	BLAIR	286(33M)	010-0077-044	12/06/84	01/07/85	208,458	156,344	0	14,806	7	7.1	0	4,411	2	2.1	11,105	3,308
0857	ALLEG.-WEST.	187(01M)	010-0006-092	12/06/84	01/08/85	1,601,290	1,200,968	0	242,272	15	15.1	0	48,219	3	3.0	181,704	36,164
0858C	ALLEG.-WEST.	64089(01M)	118-H617-005	12/06/84	01/08/85	407,100	325,680	0	61,708	15	15.2	0	12,282	3	3.0	49,366	9,826
0863	WAYNE	7(003)	118-0066-109	12/06/84	01/08/85	725,610	580,488	0	75,000	10	10.3	0	16,894	2	2.3	60,000	13,515
0862	BRADFORD	1013(K10)	119-0066-109	12/06/84	01/09/85	7,868,186	6,294,549	0	1026790	10	13.0	0	197,272	2	2.5	821,432	157,818
0866	CENTRE	56PAR(N03)	A14-0129-017	12/06/84	01/10/85	15,182	15,182	0	0	0	.0	0	0	0	.0	0	0
0867C	CENTRE	404(N03)	W33-0005-252	12/06/84	01/10/85	2,587	2,587	0	0	0	.0	0	0	0	.0	0	0
0877	MONROE	794(14M)	044-0804-582	12/06/84	01/10/85	13,432,381	12,089,143	0	1350339	10	10.1	0	403,540	3	3.0	1215305	363,186
0879	LUZERNE	935(013)	117-4002-261	12/06/84	01/10/85	422,994	338,395	0	75,290	12	17.8	0	12,110	2	2.9	60,232	9,688
0880	BUTLER	10068(107T)	685-5000-084	12/06/84	01/10/85	12,462	11,216	0	0	0	.0	0	0	0	.0	0	0
0861	VENANGO	65(A00)	118-0060-063	12/06/84	01/14/85	4,785,668	3,828,534	0	515,500	10	10.8	0	96,380	2	2.0	412,400	77,104
0871	LACKAWANNA	648(10M)	075-0260-011	12/06/84	01/14/85	381,863	286,397	0	38,658	10	10.1	0	8,338	2	2.2	28,994	6,254

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0872C	LACKAWANNA	648(10M)	W36-K019-001	12/06/84	01/14/85	122,210	91,658	0	12,342	10	10.1	0	2,662	2	2.2	9,257	1,997
0873	BUCKS	0900400.)	W36-G453-002	12/06/84	01/16/85	377,057	282,793	0	41,225	10	10.9	0	7,546	2	2.0	30,919	5,660
0868	LANCASTER	136(313)	141-0163-011	12/06/84	01/18/85	57,980	52,182	0	5,800	10	10.0	0	0	0	.0	5,220	0
0876	BUTLER	1021(012)	044-0794-091	12/06/84	01/18/85	8,761,144	7,885,030	0	876,571	10	10.0	0	176,000	2	2.0	788,914	158,400
0878	LUZERNE	40126(002)	117-4002-235	12/06/84	01/18/85	168,508	150,806	0	19,105	10	10.1	0	0	0	.0	15,284	0
0860	CLEARFIELD	62(349)	195-0049-068	12/06/84	01/25/85	936,600	889,960	0	94,160	10	10.1	0	18,736	2	2.0	89,471	17,799
0870	NORTHAMPTON	1098(13M)	010-0229-006	12/06/84	02/04/85	89,370	67,028	0	10,321	8	11.5	0	0	2	.0	7,741	0
0859	LUZERNE	40174(002)	W36-K012-002	12/06/84	02/21/85	93,695	70,271	0	9,640	10	10.3	0	0	0	.0	7,230	0
0990	ALLEGHENY	WINDGAP BRG	114-H265-003	12/12/84	03/05/85	3,532,461	2,825,969	0	460,000	13	13.0	0	87,635	2	2.5	368,000	70,268
0881	PHILADELPHIA	67057(500)	044-0765-140	12/13/84	01/02/85	14,380,896	12,942,806	0	1449650	10	10.1	0	430,920	3	3.0	1304685	387,828
0905	WAYNE	171(022)	118-0215-017	12/20/84	12/28/84	690,743	552,594	0	69,075	10	10.0	0	13,691	2	2.0	55,260	11,113
0883	BEAVER	76(032)	119-0005-029	12/20/84	01/02/85	1,790,000	1,432,000	0	161,000	9	9.0	0	35,800	2	2.0	128,800	28,640
0911	MONTGOMERY	769(100)	044-0765-141	12/20/84	01/02/85	26,934,323	24,240,891	0	2706000	10	10.0	0	851,750	3	3.2	2435400	766,575
0909	NORTHUMBERLAN	49017(07M)	W32-0438-001	12/20/84	01/16/85	77,238	57,929	0	0	0	.0	0	0	0	.0	0	0
0886	ALLEGHENY	330(037)	118-0009-027	12/20/84	01/17/85	8,208,711	6,566,969	0	1441000	15	17.6	0	284,385	3	3.5	1152800	227,508
0885	FAYETTE	288(108)	141-0009-025	12/20/84	01/18/85	52,377	47,139	0	0	0	.0	0	0	0	.0	0	0
0896	CLEARFIELD	57(NO1)ETC	A14-0060-073	12/20/84	01/18/85	29,817	29,817	0	0	0	.0	0	0	0	.0	0	0

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0897C	CLEARFIELD	59(N01)	W33-0005-251	12/20/84	01/18/85	46,922	46,922	0	0	0	.0	0	0	0	.0	0	0
0904	TIOGA	308(007)	114-0215-013	12/20/84	01/18/85	660,336	528,261	0	72,500	10	11.0	0	13,499	2	2.0	58,000	10,799
0910	WESTMORELAND	64232(04R)	W36-H590-001	12/20/84	01/18/85	2,275,378	1,706,534	0	345,280	15	15.2	0	69,000	3	3.0	258,960	51,750
0918	LANCASTER	36008(B09)	117-4002-262	12/20/84	01/18/85	820,311	656,249	0	82,856	10	10.1	0	16,761	2	2.0	66,285	13,409
0919	WASHINGTON	62016(C20)	117-4002-262	12/20/84	01/18/85	961,125	768,900	0	128,494	10	13.4	0	41,798	4	4.3	102,795	33,438
0921	BLAIR	07016(002)	117-4002-271	12/20/84	01/18/85	305,901	244,721	0	30,605	10	10.0	0	6,349	2	2.1	24,484	5,079
0889	WASHINGTON	114(01M)	A14-0013-021	12/20/84	01/21/85	18,563	18,563	0	1,308	7	7.0	0	0	0	.0	1,308	0
0890C	WASHINGTON	108(06M)	W37-H005-012	12/20/84	01/21/85	73,575	73,575	0	5,181	7	7.0	0	0	0	.0	5,181	0
0891C	WASHINGTON	802(01M)	W37-H701-003	12/20/84	01/21/85	40,315	40,315	0	2,841	7	7.0	0	0	0	.0	2,841	0
0892C	WASHINGTON	108(07M)	A14-0011-012	12/20/84	01/21/85	12,553	12,553	0	888	7	7.1	0	0	0	.0	888	0
0906	SUSQUEHANNA	57059(011)	118-0250-004	12/20/84	01/21/85	762,158	609,726	0	122,966	10	16.1	0	26,699	2	3.5	98,373	21,359
0908	LANCASTER	36081(B01)	138-0391-007	12/20/84	01/21/85	545,790	491,211	0	54,566	10	10.0	0	14,528	2	2.7	49,122	13,070
0912	WASHINGTON	1008(01M)	044-0791-145	12/20/84	01/21/85	607,052	546,347	0	91,058	15	15.0	0	18,212	3	3.0	81,952	16,391
0915	LANCASTER	36035(B02)	117-4002-255	12/20/84	01/21/85	262,391	209,913	0	24,000	9	9.1	0	5,300	2	2.0	19,200	4,240
0917	TIOGA	58065(004)	117-4002-259	12/20/84	01/21/85	534,439	427,551	0	36,400	8	6.8	0	12,879	2	2.4	29,120	10,303
0894	MCKEAN	97(227)	195-0049-070	12/20/84	01/22/85	838,549	796,622	0	68,600	10	8.2	0	16,500	2	2.0	65,170	15,675
0901	LYCOMING	23(385)	141-0133-017	12/20/84	01/22/85	83,715	75,344	0	8,400	10	10.0	0	0	0	.0	7,560	0

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0903	DAUPHIN	618(303)	141-0151-003	12/20/84	01/22/85	180,193	162,174	0	19,143	10	10.6	0	0	0	.0	17,229	0
0914	MONROE	1002(30M)	044-3801-048	12/20/84	01/25/85	6,745,616	6,071,054	0	687,247	10	10.2	8	185,325	2	2.7	618,522	166,793
0898	ERIE	709(06M)ETC	010-0066-102	12/20/84	01/29/85	665,445	499,084	0	72,015	10	10.8	0	18,874	2	2.8	54,011	14,154
0893	LUZERNE	40117(005)	436-K035-004	12/20/84	01/31/85	1,132,268	905,814	0	120,000	10	10.6	0	43,877	3	3.9	96,000	35,102
0882	CENTRE	1050(000)	080-0001-020	12/20/84	02/12/85	208,260	177,021	0	0	0	.0	0	0	0	.0	0	0
0907	ALLEGHENY	108(024)	118-M309-006	12/20/84	02/12/85	594,700	475,760	0	81,850	10	13.8	0	12,100	2	2.0	65,480	9,680
0916	LANCASTER	36072(B03)	117-4002-258	12/20/84	02/15/85	583,211	466,569	0	52,489	9	9.0	0	12,031	2	2.1	41,991	9,625
0920	SNYDER	54018(004)	117-4002-263	12/20/84	03/08/85	248,911	199,129	0	24,936	10	10.0	0	9,040	2	3.6	19,949	7,232
0902	LYCOMING	23(034)	118-0133-019	12/20/84	03/12/85	481,172	384,938	0	54,150	10	11.3	0	17,178	2	3.6	43,320	13,742
0887	YORK	A1999(111)	141-N012-002	12/20/84	03/18/85	38,585	34,727	0	3,919	10	10.2	0	0	0	.0	3,527	0
0888C	YORK	66020(114)	141-N055-021	12/20/84	03/18/85	153,305	137,975	0	15,581	10	10.2	0	0	0	.0	14,023	0
1022	ALLEGHENY	BAUM BLVD.	118-M026-003	12/27/84	04/15/85	3,414,646	2,731,717	0	512,200	15	15.0	0	102,500	3	3.0	409,760	82,000
0932	ALLEGHENY	1021(2A)	042-2792-096	01/10/85	01/28/85	56,534,122	50,880,710	0	5659335	10	10.0	0	2263734	4	4.0	5093402	2037361
0933C	ALLEGHENY	1021(2A)	044-2792-097	01/10/85	01/28/85	85,583	77,025	0	5,665	10	6.6	0	2,266	4	2.6	5,099	2,039
0926	LACKAWANNA	439(14M)	436-K111-001	01/10/85	02/11/85	749,457	562,093	0	75,349	10	10.1	0	22,505	3	3.0	56,512	16,879
0927C	LUZERNE	439(15M)	075-0272-005	01/10/85	02/11/85	494,542	370,907	0	49,679	10	10.0	0	14,838	3	3.0	37,259	11,129
0928C	LACKAWANNA	439(16M)	075-0272-006	01/10/85	02/11/85	259,122	194,342	0	25,972	10	10.0	0	7,757	3	3.0	19,479	5,818

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0931	CARBON	1009(16M)	044-0804-581	01/10/85	02/13/85	4,975,293	4,477,764	0	509,680	10	10.2	0	114,910	2	2.3	456,712	103,419
0923	CRAWFORD	271(06M)	010-0023-044	01/10/85	02/21/85	672,240	504,180	0	71,074	10	10.6	0	13,520	2	2.0	53,306	10,140
0925	SOMERSET	51(52M)	195-0049-061	01/10/85	02/21/85	482,088	463,684	0	42,662	8	8.7	0	10,200	2	2.1	40,529	9,690
0929	MONTGOMERY	46018(RBR)	138-G575-001	01/10/85	03/11/85	69,764	62,788	0	6,975	10	10.0	0	1,450	2	2.1	6,278	1,305
0924	WESTMORELAND	480(A08)	010-0039-014	01/10/85	03/12/85	642,264	481,698	0	155,795	15	24.3	0	13,000	2	2.0	116,846	9,750
0922	CLARION	214(025)	116-0022-035	01/10/85	03/14/85	822,098	657,678	0	112,158	10	13.6	0	16,533	2	2.0	89,726	13,226
0930	MERCER	1009(04M)	044-0801-626	01/10/85	03/15/85	2,805,813	2,525,232	0	297,282	10	10.6	0	73,000	2	2.6	267,554	65,700
0938	CAMBRIA	11059(75M)	010-0077-041	01/24/85	02/19/85	640,703	480,527	0	64,294	10	10.0	0	18,450	2	2.9	48,221	13,838
0946	BERKS	A5722(02M)	010-0232-013	01/24/85	02/19/85	175,528	131,646	0	0	0	.0	0	0	0	.0	0	0
0945	SCHUYLKILL	140PAR(035)	141-0180-063	01/24/85	02/20/85	35,890	32,301	0	0	0	.0	0	0	0	.0	0	0
0940	ALLEGHENY	02328(005)	141-H111-001	01/24/85	02/21/85	197,475	177,728	0	16,234	8	8.2	0	4,040	2	2.0	14,611	3,636
0944	COLUMBIA	239(021)	010-0173-028	01/24/85	02/21/85	317,113	237,835	0	37,080	10	11.7	0	6,370	2	2.0	27,810	4,778
0948	ALLEGHENY	395(12M)	W36-H805-003	01/24/85	02/28/85	337,780	253,275	0	51,174	15	15.2	0	10,000	3	3.0	38,381	7,500
0936	ERIE	25026(01N)	W32-C024-004	01/24/85	03/04/85	269,150	201,863	0	26,924	10	10.0	0	5,385	2	2.0	20,193	4,039
0937C	ERIE	25026(01N)	W33-C024-005	01/24/85	03/04/85	65,304	65,304	0	6,521	10	10.0	0	1,304	2	2.0	6,521	1,304
0950	LUZERNE	170SP(02M)	W32-6206-001	01/24/85	03/05/85	125,955	94,466	0	12,624	10	10.0	0	4,160	2	3.3	9,468	3,120
0951C	LUZERNE	184(31M)	010-0198-009	01/24/85	03/05/85	200,444	150,333	0	20,081	10	10.0	0	6,616	2	3.3	15,061	4,962

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0935	LACKAWANNA	174(185)ETC	138-0005-253	01/24/85	03/11/85	166,429	149,786	9	16,548	10	11.1	0	0	0	.0	16,693	0
0941	YORK	128(762)	A14-0164-003	01/24/85	03/11/85	62,048	62,048	0	0	0	.0	0	0	0	.0	0	0
0942C	YORK	216(763)	A14-0158-010	01/24/85	03/11/85	17,456	17,456	0	0	0	.0	0	0	0	.0	0	0
0943C	YORK	332(765)ETC	W33-N005-006	01/24/85	03/11/85	41,619	41,619	0	0	0	.0	0	0	0	.0	0	0
0949	WAYNE	63058(11S)	138-5001-177	01/24/85	03/21/85	75,000	67,500	0	7,668	10	10.2	0	0	0	.0	6,901	0
0966	MONROE	45049(017)	118-0223-021	02/07/85	02/14/85	748,462	598,770	0	74,846	10	10.0	0	20,947	2	2.8	59,877	16,758
0967	NORTHAMPTON	77E(014)ETC	010-0228-024	02/07/85	02/15/85	13,760,350	10,320,263	0	2063755	15	15.0	0	412,653	3	3.0	1547816	309,490
0968C	NORTHAMPTON	779(029)ETC	118-0228-025	02/07/85	02/15/85	1,625,606	1,300,485	0	244,696	15	15.1	0	48,927	3	3.0	195,757	39,142
0962	CRAWFORD	20007(01S)	141-0064-004	02/07/85	03/01/85	12,478	11,230	0	0	0	.0	0	0	0	.0	0	0
0959	ALLEGHENY	806(027)	A14-0013-020	02/07/85	03/04/85	515,583	515,587	0	41,250	8	8.0	0	10,375	2	2.0	41,250	10,375
0960C	ALLEGHENY	806(26M)	010-0013-019	02/07/85	03/04/85	1,546,142	1,159,607	0	123,750	8	8.0	0	31,125	2	2.0	92,813	23,344
0957	LUZERNE	177(22M)	010-0005-259	02/07/85	03/06/85	1,585,994	1,189,496	0	158,618	10	10.0	0	62,448	4	3.9	118,964	46,836
0958C	LUZERNE	11(40M)	A14-0227-010	02/07/85	03/06/85	24,311	24,311	0	2,416	10	9.9	0	966	4	4.0	2,416	966
0963	MCKEAN	469(A10)	118-0114-003	02/07/85	03/06/85	1,089,164	871,331	0	103,952	8	9.5	0	21,615	2	2.0	83,162	17,452
0961	CLEARFIELD	57(350)	A85-0060-078	02/07/85	03/08/85	1,074,231	913,096	0	108,123	10	10.1	0	21,600	2	2.0	91,905	18,360
0971	MERCER	43022(01S)	141-4001-099	02/07/85	03/08/85	71,374	64,237	0	7,396	9	10.4	0	0	0	.0	6,656	0
0972	FAYETTE	26110(105)	141-4001-105	02/07/85	03/12/85	248,529	223,676	0	54,634	10	22.0	0	0	0	.0	49,171	0

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0964	LACKAWANNA	168(14M)	W36-K150-002	02/07/85	03/19/85	435,055	326,291	0	51,429	12	11.8	0	16,681	2	3.8	38,572	12,511
0965C	LACKAWANNA	168EXT(425)	W37-K150-003	02/07/85	03/19/85	27,130	27,130	0	3,225	12	11.9	0	1,046	2	3.9	3,225	1,046
0969	LANCASTER	3325P(126)	141-0464-005	02/07/85	04/03/85	48,066	43,259	0	0	0	.0	0	0	0	.0	0	0
0970	BUTLER	1021(TW9)	044-0794-093	02/07/85	04/23/85	147,184	132,466	0	14,800	10	10.1	0	0	0	.0	13,320	0
0984	MONTOUR	2(04N)	A14-0178-028	02/21/85	03/13/85	135,459	135,459	0	16,265	12	12.0	0	0	0	.0	16,265	0
0977	LACKA.-LUZ.	3507(013)	W37-K005-015	02/21/85	03/15/85	177,262	177,262	0	17,262	10	9.7	0	4,300	2	2.4	17,262	4,300
0979	MERCER	74(01S)	141-0056-010	02/21/85	03/15/85	273,018	245,716	0	27,451	10	10.1	0	5,479	2	2.0	24,706	4,931
0980	CRAWFORD	20054(01M)	010-0092-002	02/21/85	03/19/85	727,741	545,606	0	73,183	10	10.1	0	14,555	2	2.0	54,867	10,916
0982	LANCASTER	215(774)	010-0164-024	02/21/85	03/19/85	1,023,729	767,793	0	29,689	10	2.9	0	21,518	2	2.1	22,268	16,139
0986	YORK	441(782)	075-0444-001	02/21/85	03/19/85	1,223,612	917,709	0	123,200	10	10.1	0	25,220	2	2.1	92,400	18,915
0985	MONTGOMERY	198(M05)	010-0261-017	02/21/85	03/21/85	488,152	366,114	0	77,369	15	15.8	0	19,650	4	4.0	58,027	14,738
0988	ERIE	797(17B)	044-0901-049	02/21/85	04/16/85	1,059,936	953,942	0	97,760	9	9.2	0	21,500	2	2.0	87,984	19,350
0983	NORTHUMBERLAN	182(016)	010-0177-014	02/21/85	04/30/85	439,656	329,742	0	44,250	10	10.1	0	23,386	2	5.3	33,188	17,540
0978	LEHIGH	390285P(05S	141-A016-002	02/21/85	05/14/85	76,194	68,575	0	8,600	10	11.3	0	0	0	.0	7,740	0
0991	MERCER	TWP.RD.343	117-4002-268	02/25/85	03/18/85	426,135	340,908	0	29,850	7	7.0	0	8,550	2	2.0	23,880	6,840
1023	LEHIGH	FORNACE DR	W36-A170-001	03/07/85	03/28/85	62,989	47,242	0	0	0	.0	0	0	0	.0	0	0
1049	MERCER	TWP.RD.694	117-4002-009	03/11/85	04/08/85	215,010	172,008	0	37,015	10	17.2	0	0	0	.0	29,612	0

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1050	MERCER	TWP.RD.599	117-4002-208	03/11/85	04/08/85	219,470	176,576	0	34,300	10	15.6	0	5,613	2	2.6	27,440	4,490
1051	MERCER	TWP.RD.539	117-4002-210	03/11/85	04/08/85	514,073	411,258	0	31,995	6	6.2	0	10,300	2	2.0	25,596	8,240
1001	VENANGO	91(015)	141-0023-046	03/14/85	04/09/85	43,097	38,787	0	0	0	.0	0	0	0	.0	0	0
1016	CLAR.-VEN.	1009(026)	064-0801-628	03/14/85	04/09/85	32,586,255	29,327,630	0	3300000	10	10.1	0	1305085	4	4.0	2970000	1174577
0998	LACKAWANNA	CNTY.RD. 2	W36-0005-266	03/14/85	04/10/85	103,011	77,258	0	0	0	.0	0	0	0	.0	0	0
1003	BERKS	146SP.E(001	W32-J052-002	03/14/85	04/10/85	141,506	111,380	0	0	0	.0	0	0	0	.0	0	0
1005	CAMBRIA	234(76M)	010-0111-039	03/14/85	04/10/85	610,945	458,209	0	78,477	10	12.8	0	12,000	2	2.0	58,858	9,000
1006	SULLIVAN	19(18M)	010-0117-061	03/14/85	04/10/85	205,477	154,108	0	20,581	10	10.0	0	4,500	2	2.2	15,436	3,375
1007	MIFFLIN	192(195)	141-0125-012	03/14/85	04/10/85	588,668	529,801	0	62,728	10	10.7	0	11,780	2	2.0	56,455	10,602
1008	CENTRE	56(N02)	A14-0129-019	03/14/85	04/10/85	31,178	31,178	0	0	0	.0	0	0	0	.0	0	0
1011	COLUMBIA	4(24M)	010-0178-030	03/14/85	04/10/85	499,065	374,299	0	0	0	.0	0	0	0	.0	0	0
1018	MONTOUR	47035(002)	117-4002-244	03/14/85	04/10/85	139,749	111,799	0	23,034	10	16.5	0	0	0	.0	18,427	0
1020	CENTRE	14023(000)	138-5001-225	03/14/85	04/10/85	39,295	35,366	0	0	0	.0	0	0	0	.0	0	0
0997	LUZERNE	5(565)ETC.	138-K005-017	03/14/85	04/11/85	439,415	395,474	0	52,741	12	12.0	0	8,800	2	2.0	47,467	7,920
0999	WASHINGTON	A685(01M)	118-0011-014	03/14/85	04/15/85	198,003	158,402	0	33,700	10	17.0	0	4,523	2	2.3	26,960	3,618
1000	BUTLER	72(298)	010-0023-045	03/14/85	04/15/85	838,175	628,631	0	119,351	10	14.2	0	27,513	2	3.3	89,513	20,635
1004	LUZERNE	40039(06M)	W36-K071-002	03/14/85	04/15/85	418,830	314,123	0	41,883	10	10.0	0	8,395	2	2.0	31,412	6,296

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1013	BEAVER	AMB-ALIQ.BG	118-M368-001	03/14/85	04/15/85	633,000	506,400	0	0	0	.0	0	0	0	.0	0	0
1010	YORK	216(779)	010-0158-012	03/14/85	04/16/85	829,860	622,395	0	101,000	12	12.2	0	19,244	2	2.3	75,750	14,433
1017	LACK.-LUZ.	1005(05M)	044-0813-142	03/14/85	04/16/85	9,470,568	8,523,511	0	949,360	10	10.0	0	315,281	3	3.3	854,424	283,753
1002	CLEARFIELD	59(N02)	A14-0049-001	03/14/85	04/17/85	120,253	120,253	0	12,100	10	10.1	0	0	0	.0	12,100	0
1012	DELAWARE	719(RBR)	138-G276-003	03/14/85	04/18/85	59,973	53,976	0	0	0	.0	0	0	0	.0	0	0
1015	WASH.-WEST.	VARIOUS	044-0701-125	03/14/85	04/18/85	56,503	50,853	0	0	0	.0	0	0	0	.0	0	0
1009	TIOGA	21(50M)	010-0131-065	03/14/85	04/22/85	598,339	448,754	0	53,851	9	9.0	0	11,967	2	2.0	40,388	8,975
1014	WASHINGTON	798(03R)	044-0701-122	03/14/85	04/22/85	5,998,799	5,398,919	0	626,631	10	10.4	0	122,368	2	2.0	563,968	110,131
0995	LANCASTER	128SP.(789)	W33-F005-006	03/14/85	04/26/85	120,099	120,099	0	0	0	.0	0	0	0	.0	0	0
0996C	LANCASTER	36036(789)	A14-0005-269	03/14/85	04/26/85	87,944	87,944	0	0	0	.0	0	0	0	.0	0	0
1019	UNION	59022(009)	117-4002-273	03/14/85	05/01/85	412,670	330,136	0	81,878	8	19.8	0	8,254	2	2.0	65,502	6,603
1075	MERCER	TWP.RD.730	117-4002-269	03/25/85	04/22/85	311,290	249,032	0	24,920	8	8.0	0	6,300	3	2.0	19,936	5,040
1031	MIFFLIN	44007(N01)	075-0148-002	03/28/85	04/16/85	5,347	4,010	0	0	0	.0	0	0	0	.0	0	0
1045	LANCASTER	36008(781)	680-4000-306	03/28/85	04/18/85	166,969	125,227	0	18,000	10	10.8	0	0	0	.0	13,500	0
1024	FAYETTE	26153(02M)	W33-0005-265	03/28/85	04/19/85	271,478	271,478	0	0	0	.0	0	0	0	.0	0	0
1026	CRAWFORD	271(04N)	010-0023-048	03/28/85	04/22/85	558,440	418,830	0	44,697	8	8.0	0	16,753	3	3.0	33,523	12,565
1036	MONTGOMERY	178(M03)	010-0249-028	03/28/85	04/24/85	537,354	403,016	0	93,136	15	17.3	0	28,050	2	5.2	69,852	21,036

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1039	YORK	715(783)	075-0447-006	03/28/85	04/24/85	699,647	524,735	0	132,748	15	19.0	0	22,000	3	3.1	99,561	16,500
1041	INDIANA	32053(002)	138-0493-001	03/28/85	04/24/85	972,608	875,347	0	77,844	8	8.0	0	20,145	2	2.1	70,060	18,131
1042	WASHINGTON	62163(A10)	118-M707-004	03/28/85	04/24/85	423,000	338,400	0	70,500	10	16.7	0	8,460	2	2.0	56,400	6,768
1043C	WASHINGTON	62163(A10)	M36-M707-002	03/28/85	04/24/85	27,000	20,250	0	4,500	10	16.7	0	540	2	2.0	3,375	405
1046	FRANKLIN	400(002)	117-4002-266	03/28/85	04/24/85	1,036,197	828,958	0	104,000	10	10.0	0	20,724	2	2.0	83,200	16,579
1040	WASHINGTON	PET.TWP.BKH	M61-M496-004	03/28/85	04/26/85	112,866	112,866	0	12,312	10	10.9	0	0	0	.0	12,312	0
1034	MONTGOMERY	A1381(07M)	075-0164-024	03/28/85	04/29/85	266,791	200,093	0	3[illegible],317	10	11.4	0	5,400	2	2.0	22,738	4,050
1029	PHILADELPHIA	67347(RBR)	138-G055-005	03/28/85	04/30/85	54,444	49,000	0	0	0	.0	0	0	0	.0	0	0
1028	BUTLER-MER.	10067(292)	010-0055-001	03/28/85	05/02/85	1,259,333	944,500	0	125,934	10	10.0	0	37,780	3	3.0	94,451	28,335
1027	SOMERSET	51(61M)	195-0049-065	03/28/85	05/06/85	213,566	202,888	0	26,415	10	12.4	0	0	0	.0	25,094	0
1030	BLAIR	55(29M)	010-0077-042	03/28/85	05/06/85	209,697	157,273	0	21,613	10	10.3	0	0	0	.0	16,210	0
1032	YORK	A402(791)	M33-N065-002	03/28/85	05/06/85	14,331	14,331	0	1,189	8	8.3	0	0	0	.0	1,189	0
1033C	YORK	216(791)	A14-0158-013	03/28/85	05/06/85	96,132	96,132	0	7,961	8	8.3	0	0	0	.0	7,961	0
1037	DAUPHIN	339(689)	075-0300-005	03/28/85	05/06/85	421,312	315,984	0	63,220	15	15.0	0	8,596	2	2.0	47,415	6,447
1036C	DAUPHIN	339(689)	138-0300-006	03/28/85	05/06/85	25,816	23,234	0	3,892	15	15.1	0	529	2	2.0	3,503	476
1025	DAUPHIN	1395P.(006)	010-0006-088	03/28/85	05/10/85	4,625,155	3,468,866	0	683,862	15	14.8	0	163,320	3	3.5	512,897	122,490
1035	LUZERNE	232(20M)	010-0219-004	03/28/85	05/17/85	400,914	300,686	0	48,957	10	10.2	0	8,000	2	2.0	30,718	6,000

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1047	TIOGA	5006(007)	117-4002-283	03/28/85	05/30/85	515,657	412,526	0	51,571	10	10.0	0	0	2	.0	41,257	0
1053	BRADFORD	171(027)	118-0117-063	04/04/85	04/15/85	2,278,604	1,822,883	0	171,894	7	7.5	0	48,447	2	2.1	137,515	38,758
1058	NORTHAMPTON	1045(028)	042-0782-059	04/04/85	04/22/85	12,533,136	11,279,822	0	1518086	12	12.1	0	386,853	3	3.1	1366277	348,168
1056	LYCOMING	353(012)	118-0151-009	04/04/85	05/01/85	603,225	482,580	0	49,083	8	8.1	0	0	0	.0	39,266	0
1057C	LYCOMING	353(013)	118-0151-010	04/04/85	05/01/85	473,126	378,501	0	38,566	8	8.2	0	0	0	.0	30,853	0
1059	JEFFERSON	1009(203)	044-0801-629	04/04/85	05/02/85	12,437,150	11,193,435	0	1492611	12	12.0	0	249,321	2	2.0	1343350	224,389
1054	TIOGA	196(018)	118-0131-070	04/04/85	05/06/85	555,309	444,247	0	60,000	9	10.8	0	12,065	2	2.2	48,000	9,652
1055	TIOGA	22(046)	114-0141-013	04/04/85	05/14/85	919,900	735,920	0	102,000	10	11.1	0	19,610	2	2.1	81,600	15,688
1076	MERCER	TWP.RD.914	117-4002-243	04/08/85	04/29/85	109,553	87,642	0	10,958	10	10.0	0	0	0	.0	8,766	0
1073	YORK-CUMB.	333(824)	044-0831-052	04/11/85	04/22/85	9,225,264	8,302,738	0	737,390	8	8.0	0	103,675	2	1.1	663,651	93,308
1063	LYCOMING	20(59M)	W32-L013-002	04/11/85	05/03/85	325,202	243,962	0	26,644	8	8.2	0	7,800	2	2.4	19,983	5,850
1072	ALLEGHENY	1016(36M)	044-0792-149	04/11/85	05/03/85	6,522,500	5,870,250	0	1014459	15	15.6	0	142,795	2	2.2	913,013	128,516
1065	ERIE	351(81S)	141-0067-021	04/11/85	05/06/85	246,528	221,875	0	0	0	.0	0	0	0	.0	0	0
1067	BLAIR	55(030)	114-0116-016	04/11/85	05/07/85	2,060,358	1,648,286	0	232,000	10	11.3	0	63,262	2	3.1	185,600	50,610
1066	CLEARFIELD	234(359)	A85-0111-043	04/11/85	05/13/85	669,602	569,162	0	67,898	10	10.1	0	13,720	2	2.0	57,713	11,662
1069	YORK	230(78D)	110-0144-008	04/11/85	05/13/85	996,306	747,230	0	89,862	9	9.0	0	20,754	2	2.1	67,397	15,566
1070	DELAWARE	130(28N)	010-0268-037	04/11/85	05/13/85	499,178	374,384	0	79,180	15	15.9	0	29,009	4	5.8	59,385	21,757

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1071	WASHINGTON	118(E10)	118-0299-014	04/11/85	05/14/85	399,400	319,520	0	35,771	8	9.0	0	7,988	2	2.0	28,617	6,390
1064	IND-WEST.	32005(312)	A85-0043-024	04/11/85	05/15/85	977,960	831,266	0	123,000	12	12.6	0	19,573	2	2.0	104,550	16,637
1060	LANCASTER	36006(780)	W32-F005-004	04/11/85	05/30/85	525,159	393,869	0	53,448	10	10.2	0	10,499	2	2.0	40,086	7,874
1061C	LANCASTER	A53(769)	W32-F005-005	04/11/85	05/30/85	64,333	48,250	0	6,544	10	10.2	0	1,286	2	2.0	4,908	965
1062C	LANCASTER	36006(316)	141-F005-002	04/11/85	05/30/85	80,070	72,063	0	8,181	10	10.2	0	1,607	2	2.0	7,363	1,446
1068	CLINTON	219(B01)	118-0117-064	04/11/85	05/31/85	908,606	726,885	0	208,575	10	23.0	0	29,190	2	2.2	166,860	16,152
1197	BLAIR	37TH ST.BRG	118-B021-001	04/23/85	06/21/85	1,169,997	935,998	0	117,004	10	10.0	0	23,523	2	2.0	93,603	18,818
1080	BEAVER	76(062)	119-0005-030	04/25/85	05/13/85	15,265,583	12,212,466	0	632,000	4	4.1	0	0	0	.0	505,600	0
1078	BUCKS	09173(M00)E	W36-G005-254	04/25/85	05/28/85	851,527	638,645	0	104,103	12	12.2	0	18,967	2	2.2	78,077	14,225
1092	DAUPHIN	139(706)	W36-D084-002	04/25/85	05/28/85	139,523	104,642	0	13,957	10	10.0	0	2,792	2	2.0	10,468	2,094
1093C	DAUPHIN	139(702)	W37-D084-003	04/25/85	05/28/85	136,307	136,307	0	13,626	10	10.0	0	2,725	2	2.0	13,626	2,725
1101	SULLIVAN	213(13M)	010-0142-006	04/25/85	05/28/85	306,292	229,719	0	30,630	10	10.0	0	7,358	2	2.4	22,973	5,519
1104	LUZERNE	184(015)ETC	A14-0198-011	04/25/85	05/28/85	323,579	323,579	0	36,257	10	11.2	0	6,467	2	2.0	36,257	6,467
1106	HUNTINGDON	352(012)	138-0573-006	04/25/85	05/29/85	1,143,019	1,028,717	0	48,304	10	4.2	0	13,630	2	1.2	43,474	12,267
1081	WASHINGTON	62173(02R)	010-0011-013	04/25/85	05/30/85	706,514	529,886	0	86,000	12	12.2	0	14,200	2	2.0	64,500	10,650
1084	LUZURNE	40033(18M)	W36-A016-002	04/25/85	05/30/85	1,446,528	1,084,896	0	144,659	10	10.0	0	0	0	.0	108,494	0
1085	LEHIGH	39035(07M)	W36-A033-006	04/25/85	05/30/85	437,363	328,022	0	68,277	10	15.6	0	15,917	2	3.6	51,208	11,938

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1086	CUMBERLAND	123(679)	M36-0034-001	04/25/85	05/30/85	231,060	173,295	0	21,059	10	9.1	0	3,950	2	1.7	15,794	2,963
1088	MERCER	238(09M)	010-0059-035	04/25/85	05/30/85	774,794	581,096	0	62,391	8	8.1	0	0	0	.0	46,793	0
1091	LEHIGH	153(34M)	M36-A069-002	04/25/85	05/30/85	622,613	466,960	0	77,484	10	12.4	0	12,651	2	2.0	58,113	9,488
1094	LYCOMING	41022(011)	118-0153-004	04/25/85	05/30/85	1,234,976	987,981	0	137,523	10	11.1	0	26,820	2	2.2	110,018	21,456
1100	JUNIATA	31(N01)	141-0134-009	04/25/85	05/30/85	16,747	15,072	0	0	0	.0	0	0	0	.0	0	0
1103	NORTHUMBERLAN	240(021)	118-0165-007	04/25/85	05/30/85	401,333	321,066	0	70,296	8	17.5	0	0	0	.0	56,237	0
1107	SCHUYLKILL	53035(007)	118-0612-004	04/25/85	05/30/85	134,579	107,663	0	19,164	10	14.2	0	0	0	.0	15,331	0
1112	SOMERSET	55026(003)	138-5001-155	04/25/85	05/30/85	159,187	143,268	0	15,918	10	10.0	0	0	0	.0	14,326	0
1083	WASHINGTON	108(08M)	010-0013-026	04/25/85	05/31/85	69,165	51,874	0	0	0	.0	0	0	0	.0	0	0
1110	BUCKS	1000(TW1)	044-0952-155	04/25/85	05/31/85	44,210	39,789	0	0	0	.0	0	0	0	.0	0	0
1111C	BUCKS	1018(TW2)	044-0951-096	04/25/85	05/31/85	44,209	39,788	0	0	0	.0	0	0	0	.0	0	0
1113	LAWRENCE	80(01S)	141-6153-005	04/25/85	05/31/85	26,914	24,223	0	0	0	.0	0	0	0	.0	0	0
1089	CENTRE	1050(005)	642-0060-068	04/25/85	06/05/85	113,401	90,721	0	11,411	10	10.1	0	2,360	2	2.1	9,129	1,888
1090C	CENTRE	1050(005)	010-0060-069	04/25/85	06/05/85	1,611,007	1,288,485	0	161,485	10	10.0	0	33,404	2	2.1	121,114	25,055
1079	INDIANA	1112(301)ET	A85-0005-255	04/25/85	06/10/85	989,941	841,450	0	99,398	10	10.0	0	0	0	.0	84,412	0
1096	ARMSTRONG	251(252)	A85-0086-007	04/25/85	06/10/85	1,192,953	1,014,010	0	119,312	10	10.0	0	262,055	2	22.0	101,415	222,747
1098	TIOGA	21(53M)	010-0131-071	04/25/85	06/11/85	591,895	443,921	0	52,696	10	8.9	0	1,925	2	.3	39,522	1,444

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1099C	TIOGA	21(549)	141-0131-072	04/25/85	06/11/85	164,422	147,980	0	14,614	10	8.9	0	534	2	.3	13,153	481
1095	NORTHUMBERLAN	1(21M)	010-0159-033	04/25/85	06/24/85	366,981	275,236	0	36,689	10	10.0	0	7,340	2	2.0	27,517	5,505
1108	MONROE	1009(18M)	044-0804-583	04/25/85	06/24/85	11,846,370	10,661,733	0	361,273	10	3.0	0	44,576	2	.4	325,146	40,118
1087	CAMBRIA	11015(81M)	W32-E057-005	04/25/85	06/25/85	930,579	697,934	0	46,800	5	5.0	0	0	0	.0	35,100	0
1140	MONTGOMERY	769(210)	044-0765-145	05/09/85	05/29/85	7,377,820	6,640,038	0	1142212	10	15.5	0	162,149	2	2.2	1027991	145,934
1125	CRAWFORD	82(03N)	A14-0060-082	05/09/85	06/03/85	110,858	110,858	0	0	0	.0	0	0	0	.0	0	0
1119	LAWRENCE	233(05M)	010-0044-008	05/09/85	06/05/85	897,723	673,292	0	90,418	10	10.1	0	54,946	2	6.1	67,814	41,210
1120C	LAWRENCE	233(06M)	118-0044-010	05/09/85	06/05/85	520,406	416,325	0	52,422	10	10.1	0	31,857	2	6.1	41,938	25,486
1121	BUCKS	150(M03)	W36-G046-007	05/09/85	06/06/85	628,600	471,450	0	63,600	10	10.1	0	0	0	.0	47,700	0
1128	CLEARFIELD	17041(360)	141-0119-014	05/09/85	06/06/85	674,434	606,991	0	67,558	10	10.0	0	13,500	2	2.0	60,802	12,150
1123	CLEARFIELD	59(361)	195-0049-073	05/09/85	06/13/85	258,227	245,316	0	25,925	10	10.0	0	0	0	.0	24,629	0
1126	MCKEAN	95(230)	A65-0066-112	05/09/85	06/14/85	1,507,468	1,432,095	0	135,672	9	9.0	0	0	0	.0	128,888	0
1129	CUMBERLAND	34(684)	010-0150-006	05/09/85	06/17/85	408,735	306,551	0	31,706	6	7.8	0	0	0	.0	23,780	0
1131	TIOGA	A7412(01M)	075-0175-003	05/09/85	06/19/85	458,757	344,068	0	59,400	10	12.9	0	12,649	2	2.8	44,550	9,489
1127	ERIE	88(13M)	010-0066-115	05/09/85	06/20/85	1,428,413	1,071,310	0	128,829	9	9.0	0	0	0	.0	96,622	0
1124	CUMBERLAND	264A(673)	W32-0057-005	05/09/85	06/24/85	339,652	254,739	0	35,596	10	10.5	0	0	0	.0	26,697	0
1115	BLAIR	8845P.E(01E	W33-8005-005	05/09/85	06/25/85	551,146	551,146	0	55,276	10	10.0	0	13,104	2	2.4	55,276	13,104

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1116C	BLAIR	8845P.E(01E	W32-B014-006	05/09/85	06/25/85	144,559	108,419	0	14,517	10	10.0	0	3,441	2	2.4	10,888	2,581
1118	ALLEGHENY	247(34M)	010-0009-028	05/09/85	06/25/85	861,816	646,362	0	103,420	12	12.0	0	17,240	2	2.0	77,565	12,930
1117C	LYCOMING	41132(BRBRP	118-L003-005	05/09/85	06/27/85	219,000	175,200	0	0	8	.0	0	0	0	.0	0	0
1132	WAYNE	171(23M)	010-0215-015	05/09/85	06/27/85	1,141,814	856,361	0	115,035	10	10.1	0	0	0	.0	86,276	0
1133C	WAYNE	171(24M)	010-0215-016	05/09/85	06/27/85	536,825	402,619	0	54,029	10	10.1	0	0	0	.0	40,522	0
1134C	WAYNE	173(020)	A61-0215-014	05/09/85	06/27/85	97,057	97,057	0	9,839	10	10.1	0	0	0	.0	9,839	0
1117	LYCOMING	41132(BR004	118-L003-005	05/09/85	07/22/85	208,490	166,792	1	17,290	8	8.3	0	0	0	.0	13,832	0
1122	CRAWFORD	258(01M)	075-0047-005	05/09/85	07/22/85	233,111	174,833	2	30,388	10	13.0	0	0	0	.0	22,791	0
1139	CHESTER	15017(12B)	118-0411-003	05/09/85	07/30/85	246,638	197,310	1	30,500	12	12.4	0	0	0	.0	24,400	0
1135	DELAWARE	131(11N)	010-0234-045	05/09/85	08/02/85	159,308	119,481	3	16,775	10	10.5	0	0	0	.0	12,581	0
1142	DIST.6-0	142(ST2)	044-0005-025	05/23/85	06/14/85	2,612,163	2,350,947	0	410,567	15	15.7	0	105,522	3	4.0	369,510	94,970
1153	LUZERNE	169(35M)	118-K076-009	05/23/85	06/14/85	2,079,682	1,663,746	0	208,308	10	10.0	0	43,253	2	2.1	166,646	34,602
1165	LACKAWANNA	1005(04M)	044-0813-139	05/23/85	06/25/85	5,997,256	5,397,530	0	687,216	10	11.5	0	203,293	2	3.4	618,494	182,964
1144	CUMBERLAND	341(70)	W36-D018-006	05/23/85	06/26/85	188,541	141,406	0	11,315	6	6.0	0	0	0	.0	8,486	0
1146	YORK	PRINCESS ST	W33-N032-003	05/23/85	06/26/85	100,366	100,366	0	0	0	.0	0	0	0	.0	0	0
1147C	YORK	PRINCESS ST	W33-N024-002	05/23/85	06/26/85	48,614	48,614	0	0	0	.0	0	0	0	.0	0	0
1148C	YORK	PRINCESS ST	W33-N017-003	05/23/85	06/26/85	85,019	85,019	0	0	0	.0	0	0	0	.0	0	0

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1149	SOMERSET	1022(60M)	195-0049-072	05/23/85	06/26/85	261,755	246,667	0	0	0	.0	0	0	0	.0	0	0
1150	CAMBRIA	11034(83M)	195-0049-074	05/23/85	06/26/85	313,638	297,956	0	31,364	10	10.0	0	0	0	.0	29,796	0
1151	POTTER	102(221)	010-0066-113	05/23/85	06/26/85	180,466	135,350	0	17,242	10	9.6	0	0	0	.0	12,932	0
1152C	POTTER	102(222)	010-0066-114	05/23/85	06/26/85	953,548	715,161	0	91,201	10	9.6	0	0	0	.0	68,401	0
1158	BRADFORD	212(32M)	010-0117-062	05/23/85	06/26/85	1,026,253	769,690	0	113,890	10	11.1	0	26,117	2	2.5	85,418	19,588
1159	DAUPHIN	22021(711)	M36-0123-001	05/23/85	06/26/85	302,793	227,095	0	32,554	10	10.8	0	270,485	2	89.3	24,416	202,864
1160	BLAIR	493(35M)	141-0245-002	05/23/85	06/26/85	200,078	180,070	0	21,659	10	10.8	0	6,267	2	3.1	19,493	5,640
1161C	BLAIR	493(28M)	010-0245-003	05/23/85	06/26/85	462,051	346,538	0	50,061	10	10.8	0	14,485	2	3.1	37,546	10,864
1164	ERIE	1126(CB4)	641-0302-004	05/23/85	06/26/85	3,483,963	2,787,170	0	426,156	12	12.3	0	125,483	2	3.6	342,525	100,386
1155	CLEARFIELD	401(354)	B85-0099-018	05/23/85	06/27/85	781,018	663,869	0	78,102	10	10.0	0	0	0	.0	66,387	0
1157	CLEARFIELD	59(355)	A85-0110-005	05/23/85	06/27/85	656,576	558,090	0	65,577	10	10.0	0	13,132	2	2.0	55,740	11,162
1167	ALLEGHENY	1021(38)	042-2792-098	05/23/85	06/27/85	21,268,238	19,141,414	0	3190236	15	15.0	0	638,047	3	3.0	2871212	574,242
1154	WARREN	89(05M)	010-0089-013	05/23/85	07/16/85	1,043,747	782,810	2	110,311	10	10.6	1	35,687	2	3.4	82,733	26,765
1162	BUCKS	178(02N)	010-0249-024	05/23/85	07/17/85	25,435	19,076	0	0	0	.0	0	0	0	.0	0	0
1163C	BUCKS	178(M02)	010-0249-027	05/23/85	07/17/85	1,982,416	1,486,812	3	201,799	10	10.2	1	40,165	2	2.0	151,349	30,124
1168	WESTMORELAND	TWP.90.503	117-4002-275	05/23/85	07/31/85	280,430	230,744	1	55,250	10	19.2	2	6,497	2	2.3	44,200	5,198
1145	WASHINGTON	247(05M)	A14-0027-009	05/23/85	08/01/85	125,958	125,958	0	0	0	.0	0	0	0	.0	0	0

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1143	HUNTINGDON	55(16M)	010-0006-093	05/23/85	08/15/85	1,081,869	811,402	3	108,196	10	10.0	1	21,648	2	2.0	81,147	16,236
1194	PHILA.-MONT.	769 & 67057	044-0765-146	06/06/85	06/21/85	3,242,243	2,918,019	8	462,261	8	14.3	0	0	0	.0	416,035	0
1179	CRAWFORD	271(07M)	A85-0023-054	06/06/85	06/27/85	1,366,907	1,161,871	8	136,700	10	10.0	0	27,339	2	2.0	116,195	23,238
1172	DELAWARE	23030(10S)	118-6272-007	06/06/85	07/03/85	596,074	476,859	1	118,500	10	19.9	2	13,181	2	2.2	94,800	10,545
1171	LYCOMING	41132SP(A01	W32-L001-003	06/06/85	07/08/85	378,187	283,640	1	39,232	10	10.4	1	9,174	2	2.4	29,424	6,861
1170	BERKS	158(11M)	010-0005-258	06/06/85	07/10/85	279,515	209,636	2	27,965	10	10.0	1	5,600	2	2.0	20,974	4,280
1180	LYCOMING	41045(15N)	W33-L032-002	06/06/85	07/11/85	32,962	32,962	0	0	0	.0	0	0	0	.0	0	0
1181C	LYCOMING	18(47N)	076-0161-004	06/06/85	07/11/85	22,611	22,611	0	0	0	.0	0	0	0	.0	0	0
1182	LAWRENCE	80(01N)	A14-0044-011	06/06/85	07/11/85	19,936	19,936	0	0	0	.0	0	0	0	.0	0	0
1182C	LAWRENCE	80(01N)	W33-0909-293	06/06/85	07/11/85	48,482	48,482	0	0	0	.0	0	0	0	.0	0	0
1188	BRADFORD	08005(011)	118-0158-007	06/06/85	07/11/85	618,465	494,772	1	43,293	7	7.0	0	0	0	.0	34,634	0
1177	ALLEGHENY	72(31M)	010-0023-052	06/06/85	07/16/85	4,054,373	3,040,780	1	716,223	15	17.7	2	82,124	2	2.0	537,167	61,593
1178C	ALLEGHENY	72(033)	A14-0023-053	06/06/85	07/16/85	563,850	563,850	0	0	15	.0	1	11,411	2	2.0	0	11,411
1183	MERCER	43014(02M)	010-0053-012	06/06/85	07/16/85	210,983	158,237	1	21,983	10	10.4	1	16,700	2	7.9	16,487	12,525
1191	MONROE	169(41M)	010-0224-011	06/06/85	07/16/85	549,868	412,416	2	51,372	8	9.3	0	0	0	.0	38,529	0
1193	CARBON	13001(006)	118-0338-002	06/06/85	07/16/85	1,863,490	1,490,792	1	186,400	10	10.0	1	37,300	2	2.0	149,120	29,840
1195	LEHIGH	39114(A01)	117-4002-245	06/06/85	07/16/85	347,263	277,810	2	48,358	10	13.9	1	8,821	2	2.5	38,686	7,057

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1173	SOMERSET	186(53M)	010-0014-025	06/06/85	07/17/85	507,476	380,607	2	40,598	8	8.0	0	0	0	.0	30,449	0
1190	MONROE	220(06M)	141-0221-023	06/06/85	07/19/85	74,058	66,652	0	0	0	.0	0	0	0	.0	0	0
1184	BEDFORD	222(21M)	010-0063-025	06/06/85	07/22/85	511,368	383,526	1	92,116	10	18.0	1	16,585	2	3.2	69,087	12,439
1185	TIOGA	22(04S)	118-0066-116	06/06/85	07/22/85	215,645	172,516	2	21,570	10	10.0	0	0	0	.0	17,256	0
1186	BRADFORD	212(03J)	010-0066-117	06/06/85	07/26/85	341,478	256,109	1	34,161	10	10.0	0	0	0	.0	25,621	0
1172	PHILADELPHIA	67288(51M)	M37-0009-008	06/06/85	07/31/85	104,064	104,064	0	0	0	.0	0	0	0	.0	0	0
1187	PHILADELPHIA	67365(38M)	M37-0075-002	06/06/85	07/31/85	75,103	75,103	0	0	0	.0	0	0	0	.0	0	0
1174	BUTLER	79P(04T)	A14-0022-033	06/06/85	08/07/85	56,863	56,863	1	5,655	10	9.9	0	0	0	.0	5,655	0
1175C	BUTLER	79P(05T)	A14-0022-034	06/06/85	08/07/85	255,514	255,514	1	25,554	10	10.0	0	0	0	.0	25,554	0
1176C	BUTLER	72(21T)	A14-0023-041	06/06/85	08/07/85	369,051	369,051	1	36,934	10	10.0	0	0	0	.0	36,934	0
1214	NORTHUMBERLAN	25(002)	118-0182-004	06/20/85	06/28/85	11,650,209	9,320,167	0	1168000	10	10.0	0	272,000	2	2.3	934,400	217,600
1200	BEAVER	641(41M)	010-0017-056	06/20/85	07/05/85	335,848	251,886	0	0	0	.0	0	0	0	.0	0	0
1222	MONROE	1002(29M)	044-0804-588	06/20/85	07/16/85	17,346,978	15,612,280	7	1752045	10	10.1	4	355,480	2	2.0	1576841	319,932
1227	NORTHUMBERLAN	49018(005)	117-4002-285	06/20/85	07/26/85	799,964	639,971	1	82,048	10	10.3	1	18,461	2	2.3	65,638	14,769
1201	ERIE	88(14M)	A85-0023-055	06/20/85	07/31/85	477,732	406,072	1	47,808	10	10.0	2	9,555	2	2.0	40,637	8,122
1226	NORTHAMPTON	48123(A01)	117-4002-257	06/20/85	07/31/85	668,000	534,400	1	112,500	10	16.9	1	16,194	2	2.4	90,000	12,955
1203	CUMBERLAND	21048(644)	138-0058-016	06/20/85	08/01/85	737,237	663,513	2	78,876	9	10.7	3	15,085	2	2.0	70,988	13,577

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1204	MERCER	258(10M)	010-0059-037	06/20/85	08/01/85	816,832	652,826	2	65,230	8	8.0	0	0	0	.0	52,190	0
1205	BUTLER	75(296)	485-0065-014	06/20/85	08/01/85	1,513,622	1,286,579	2	152,259	10	10.1	1	30,316	2	2.0	129,420	25,770
1207	CLEARFIELD	221(A01)	118-0077-047	06/20/85	08/01/85	1,322,515	1,058,038	1	164,800	10	12.5	1	29,217	2	2.2	131,840	23,374
1210	ELK	556(801)	A14-0121-009	06/20/85	08/01/85	10,636	10,636	0	0	0	.0	0	0	0	.0	0	0
1213	LACKAWANNA	3506(205)	M36-K174-001	06/20/85	08/01/85	347,724	260,793	2	35,784	10	10.3	1	7,152	2	2.1	26,840	5,364
1218	SOMERSET	808(63M)	075-0537-007	06/20/85	08/01/85	199,018	149,264	1	20,741	10	10.4	0	0	0	.0	15,556	0
1228	INDIANA	321B01(010)	138-5001-234	06/20/85	08/01/85	133,101	119,793	1	14,801	10	11.1	0	0	0	.0	13,321	0
1212	SULLIVAN	291(036)	110-0142-007	06/20/85	08/02/85	348,094	278,475	2	36,572	10	10.5	1	11,950	2	3.4	29,258	9,560
1219	FAYETTE	112(03R)	075-0672-001	06/20/85	08/02/85	820,415	615,311	1	98,428	12	12.0	1	24,982	2	3.0	73,821	18,737
1220C	FAYETTE	112(03R)	M32-0721-001	06/20/85	08/02/85	431,213	323,410	1	51,849	12	12.0	0	0	2	.0	38,883	0
1215	CHESTER	1042(M00)	010-0249-026	06/20/85	08/05/85	2,578,227	1,933,672	2	363,771	15	14.1	2	33,579	2	1.3	272,828	25,184
1211	BRADFORD	20(37M)	010-0139-012	06/20/85	08/07/85	618,236	463,677	1	62,000	10	10.0	1	13,000	2	2.1	46,500	9,750
1224	LEHIGH	163(36M)	630-4001-104	06/20/85	08/07/85	139,296	104,472	1	14,139	10	10.2	2	2,950	2	2.1	10,604	2,213
1225C	LEHIGH	163(36M)	M36-A026-004	06/20/85	08/07/85	596,343	297,257	0	40,241	10	10.2	0	8,398	2	2.1	30,181	6,299
1229	PHILADELPHIA	6704S(AU13)	042-6761-022	06/20/85	08/07/85	11,204,537	10,554,083	2	1409600	10	12.9	3	239,357	2	2.0	1264140	215,421
1230	ALLEGHENY	228(65T)	077-9005-075	06/20/85	08/09/85	472,282	236,141	0	0	0	.0	0	0	0	.0	0	0
1202	LEHIGH	1635P(305)	M36-A027-003	06/20/85	08/12/85	1,067,412	815,559	1	108,475	10	17.6	2	29,510	2	2.7	225,319	22,133

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1223	DELAWARE	10(8)07M)	044-0951-095	06/20/85	08/14/85	3,197,544	2,877,790	3	383,752	12	12.0	1	64,550	2	2.0	345,377	58,095
1198	BEDFORD	39(19M)	010-0016-087	06/20/85	08/15/85	531,233	248,425	0	0	0	.0	0	0	0	.0	0	0
1199C	BEDFORD	39(19M)	075-0821-002	06/20/85	08/15/85	142,612	106,959	0	0	0	.0	0	0	0	.0	0	0
1206	BRADFORD	20(036)	010-0066-118	06/20/85	08/20/85	247,337	185,503	1	24,734	10	10.0	1	4,947	2	2.0	18,551	3,710
1268	ALLEGHENY	763(021)ETC	044-3761-039	06/27/85	07/05/85	11,273,725	10,146,353	2	1489982	13	13.2	1	342,878	2	3.0	1340984	308,590
1273	TIOGA	58043(007)	117-4002-279	06/27/85	07/16/85	341,770	273,416	1	68,000	10	19.9	1	9,869	2	2.9	54,400	7,895
1267	ALLEGHENY	1021(2D)	042-2792-100	06/27/85	07/19/85	19,787,919	17,809,127	2	2968238	15	15.0	1	593,639	2	3.0	2671414	534,275
1253	CHESTER	201(1)01	010-0192-005	06/27/85	07/26/85	887,746	665,810	2	81,176	9	9.1	1	17,855	2	2.0	60,882	13,391
1259	ALLEGHENY	7365P,2(004	118-H504-002	06/27/85	07/30/85	15,877,921	12,702,337	5	1592613	10	10.0	3	322,800	2	2.0	1274250	258,240
1254	SUSQUEHANNA	9(040)	138-0200-003	06/27/85	08/02/85	1,468,822	881,293	2	146,834	10	10.0	1	31,423	2	2.1	88,100	18,854
1264	FAYETTE	50(07P)	W32-0700-001	06/27/85	08/02/85	1,372,968	1,029,726	2	165,014	12	12.0	1	27,459	2	2.0	123,761	20,594
1252	MONTOUR	513(02M)	075-0154-016	06/27/85	08/05/85	176,604	132,453	2	17,747	10	10.0	0	0	0	.0	13,310	0
1269	ERIE	797(TW78TW8	049-0901-051	06/27/85	08/05/85	117,801	106,021	0	0	0	.0	0	0	0	.0	0	0
1235	CAMBRIA	222(02E)	W33-E013-005	06/27/85	08/06/85	177,127	177,127	2	17,836	10	10.1	1	3,567	2	2.0	17,836	3,567
1236C	CAMBRIA	222(02E)	W32-E013-006	06/27/85	08/06/85	2,720,846	2,040,635	0	273,684	10	10.1	0	54,735	2	2.0	205,263	41,051
1237C	CAMBRIA	222(02E)	010-0063-021	06/27/85	08/06/85	3,065,402	2,299,052	0	308,741	10	10.1	0	61,746	2	2.0	231,556	46,310
1238C	CAMBRIA	222(02E)	A14-0063-022	06/27/85	08/06/85	145,663	145,663	0	14,760	10	10.1	0	2,952	2	2.0	14,760	2,952

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1245	NORTHAMPTON	48129(002)	W36-A091-004	06/27/85	08/06/85	1,262,075	946,556	2	143,773	10	11.4	0	0	0	.0	107,830	0
1246C	NORTHAMPTON	48129(002)	W37-A091-005	06/27/85	08/06/85	156,674	156,674	1	15,975	10	10.2	0	0	0	.0	15,975	0
1232	BLAIR	57(01E)ETC.	W33-0005-292	06/27/85	08/07/85	84,214	84,214	0	0	0	.0	0	0	0	.0	0	0
1234	LANCASTER	36030(B06)	118-0012-003	06/27/85	08/07/85	452,669	362,135	1	115,000	10	25.4	2	9,167	2	2.0	92,000	7,334
1239	WASHINGTON	A9274(01R)	101-0013-027	06/27/85	08/07/85	1,441,742	1,081,307	3	216,405	15	15.0	2	29,552	2	2.0	162,304	22,164
1240	WASHINGTON	62026(02R)	010-0013-028	06/27/85	08/07/85	1,228,821	921,616	1	185,792	15	15.1	1	24,584	2	2.0	139,344	18,438
1241C	WASHINGTON	62026(02R)	141-0013-029	06/27/85	08/07/85	865,120	778,608	0	130,719	15	15.1	0	17,297	2	2.0	117,647	15,567
1244	LAWRENCE	350(05M)	010-0050-014	06/27/85	08/07/85	891,656	668,742	3	91,500	10	10.3	1	20,000	2	2.2	68,625	15,000
1247	ARMSTRONG	66(262)	A85-0091-006	06/27/85	08/07/85	417,645	354,998	1	45,610	10	10.9	1	8,400	2	2.0	38,769	7,140
1251	CUMBERLAND	507(675)	010-0148-009	06/27/85	08/07/85	1,258,107	943,580	5	122,596	9	9.7	2	27,482	2	2.2	91,947	20,612
1257	CLINTON	359(A01)	118-0240-002	06/27/85	08/07/85	3,136,713	2,509,370	3	325,059	10	10.4	0	0	0	.0	260,047	0
1263	WESTMORELAND	SECOND ST.	118-H662-001	06/27/85	08/07/85	795,248	636,198	1	113,000	10	14.2	1	50,000	2	6.3	90,400	40,000
1271	FRANKLIN	A228(B01)	117-4002-267	06/27/85	08/07/85	816,596	653,277	2	82,179	10	10.1	1	16,682	2	2.0	65,743	13,346
1274	WESTMORELAND	N.PENN AVE.	117-4002-281	06/27/85	08/07/85	872,320	697,856	1	87,232	9	10.0	2	10,468	1	1.2	69,786	8,374
1249	SULLIVAN	17(22M)	010-0117-065	06/27/85	08/13/85	692,327	519,245	1	69,233	10	10.0	2	13,847	2	2.0	51,925	10,385
1258	MONTGOMERY	146(M03)	010-0288-005	06/27/85	08/13/85	1,825,545	1,369,159	5	251,827	13	13.8	2	38,455	2	2.1	186,870	28,041
1260	SOMERSET	521(4M)	075-0549-004	06/27/85	08/15/85	713,607	535,205	3	66,459	12	9.3	1	1,528	2	.2	49,844	1,146

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1248	TIOGA	103(031)	118-0106-010	06/27/85	08/20/85	988,472	790,778	1	120,000	7	12.1	0	0	0	.0	96,000	0
1255	SCHUYLKILL	290(43M)	010-0208-002	06/27/85	08/20/85	1,020,387	765,290	2	104,387	10	10.2	2	28,890	2	2.8	78,290	21,668
1233	LEHIGH	39031(12M)	W36-A007-009	06/27/85	08/23/85	331,792	248,844	1	40,782	10	12.3	2	7,611	2	2.3	30,567	5,708
1262	WESTMORELAND	64100(02M)	118-H586-005	06/27/85	08/23/85	520,274	416,219	2	54,725	10	10.5	1	23,468	2	4.5	43,780	18,774
1261	WESTMORELAND	PENNA.AVE.	W36-H582-002	06/27/85	08/30/85	286,537	214,903	1	30,678	10	10.7	0	0	0	.0	23,009	0
1250	LACKAWANNA	MNRE.AVE.BG	118-K144-002	06/27/85	09/10/85	121,722	97,378	1	6,778	10	5.6	0	0	0	.0	5,416	0
1317	PHILADELPHIA	5TH/6TH MD	W36-G005-060	07/02/85	08/07/85	3,109,975	2,332,481	1	467,391	15	15.0	1	351,445	10	11.3	350,543	263,584
1275	WESTMORELAND	64144(A10)	W32-P005-001	07/11/85	07/29/85	1,393,147	1,044,860	1	139,380	10	10.0	2	27,863	2	2.0	104,535	20,897
1278	ALLEGHENY	330(39M)	010-0009-029	07/11/85	08/13/85	6,207,839	4,655,879	1	650,000	10	10.5	1	140,000	2	2.3	487,500	105,000
1279	ALLEGHENY	1057(11M)	010-0015-023	07/11/85	08/13/85	1,228,099	921,074	1	150,000	12	12.2	1	25,000	2	2.0	112,500	18,750
1287	JEFF.& CLEAR.	338 & 60SPR	A85-0103-011	07/11/85	08/13/85	790,245	671,708	2	80,000	10	10.1	1	16,000	2	2.0	68,000	13,600
1288	BERKS	160(33M)	010-0180-062	07/11/85	08/14/85	1,073,018	804,764	2	192,658	12	18.0	1	68,611	2	6.4	144,494	51,458
1289C	BERKS	160(33M)	W32-J003-003	07/11/85	08/14/85	114,451	85,838	0	20,347	12	17.8	0	7,247	2	6.3	15,260	5,435
1290C	BERKS	160(035)	138-0180-062	07/11/85	08/14/85	115,398	103,858	0	20,665	12	17.9	0	7,359	2	6.4	18,599	6,623
1291C	BERKS	160(345)	1-1-0180-060	07/11/85	08/14/85	469,060	422,154	0	84,248	12	18.0	0	30,003	2	6.4	75,823	27,003
1277	FAYETTE	50(110)	141-0004-040	07/11/85	08/15/85	29,568	26,611	0	0	0	.0	0	0	0	.0	0	0
1282	BLAIR	07076(A02)	106-B029-003	07/11/85	08/15/85	4,140,352	3,105,264	3	416,227	10	10.1	2	535,845	2	12.9	312,170	401,884

REPORT TYPE: YEAR-TO-DATE
REPORT BASIS: FEDERAL FISCAL YEAR

DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: OCT.1,1984 TO SEPT.30,1985

CTRL NO.	COUNTY	L.R. (SEC)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	NUM DBE CNTR	ACTUAL DBE $	G DBE %	ACT DBE %	NUM WBE CNTR	ACTUAL WBE $	G WBE %	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1283	MERCER	238(01N)	A14-0059-036	07/11/85	08/15/85	229,655	229,655	1	23,000	10	10.0	2	4,600	2	2.0	23,000	4,600
1284	LEHIGH	39032(07M)	W36-A060-043	07/11/85	08/15/85	282,907	212,180	0	0	0	.0	0	0	0	.0	0	0
1285	CLARION	65(243)	141-0060-083	07/11/85	08/15/85	216,439	194,795	1	22,000	10	10.2	1	5,100	2	2.4	19,800	4,598
1286	VENANGO	89(015)	141-0077-048	07/11/85	08/15/85	212,057	190,851	1	23,897	10	11.3	0	0	0	.0	21,507	0
1280	BUTLER	73(302)	010-0023-056	07/11/85	08/19/85	321,662	241,247	1	33,174	10	10.3	1	6,460	2	2.0	24,881	4,845
1281C	BUTLER	73(302)	A14-0023-057	07/11/85	08/19/85	46,914	46,914	0	4,826	10	10.3	0	940	2	2.0	4,826	940
1307	PHILA-MONT	769(300)	044-0765-148	07/25/85	08/06/85	38,285,532	34,456,979	1	1924756	5	5.0	1	397,790	1	1.0	1732280	358,011
1295	CHESTER	142(RBR)	138-0016-085	07/25/85	08/15/85	48,447	43,602	0	0	0	.0	0	0	0	.0	0	0
1299	ERIE	271(03M)	A85-0074-001	07/25/85	08/15/85	1,656,390	1,407,932	1	166,547	10	10.1	1	33,319	2	2.0	141,565	28,314
1301	TIOGA	196(19M)	010-0131-073	07/25/85	08/15/85	586,986	440,240	2	58,699	10	10.0	1	11,740	2	2.0	44,024	8,805
1293	FAYETTE	117(07M)	A14-0003-088	07/25/85	08/19/85	60,250	60,250	2	6,898	10	11.4	0	0	0	.0	6,898	0
1298	MERCER	73(03M)	010-0058-018	07/25/85	08/19/85	885,047	663,785	1	88,698	10	10.0	1	53,084	2	6.0	66,524	39,813
1306	SNYDER	54067(04M)	W32-0385-004	07/25/85	08/19/85	388,679	291,509	1	42,972	10	11.1	1	8,326	2	2.1	32,229	6,245
1308	ALLEGHENY	70(064)	141-ME89-005	07/25/85	08/19/85	167,674	150,907	0	0	0	.0	0	0	0	.0	0	0
1310	LEBANON	38059(802)	117-4002-287	07/25/85	08/19/85	453,460	362,768	1	22,679	5	5.0	0	0	0	.0	18,140	0
1312	CHESTER	15097(RBR)	138-5001-212	07/25/85	08/21/85	60,607	54,546	0	0	0	.0	0	0	0	.0	0	0
1296	INDIANA	28(314)	141-0033-023	07/25/85	08/23/85	360,878	324,790	1	39,577	10	11.0	1	7,275	2	2.0	35,619	6,548

REPORT TYPE: YEAR-TO-DATE
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DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: OCT.1,1984 TO SEPT.30,1985

CTRL NO.	COUNTY	L.R. (SEC.)	FEDERAL NO.	LETTING DATE	AWARD DATE	LOW BID	FED SHR	NUM DBE CNTR	ACTUAL DBE $	G DBE %	ACT DBE %	NUM WBE CNTR	ACTUAL WBE $	G WBE %	ACT WBE %	FEDERAL $ DBE	FEDERAL $ WBE
1297C	INDIANA	2261(513)	010-0033-024	07/25/85	08/23/85	880,000	660,000	0	96,427	10	11.0	0	17,725	2	2.0	72,320	13,294
1309	BUCKS	1090(04R)	044-0952-156	07/25/85	09/04/85	4,699,122	4,229,210	4	640,876	13	13.7	1	94,000	2	2.0	579,666	84,600
1302	DAUPHIN	2201(7716)	W36-0146-001	07/25/85	09/10/85	650,000	487,500	3	72,579	10	11.2	2	10,678	2	1.7	54,434	8,159
1311	UNION	BROWN ST.	117-4002-296	07/25/85	09/19/85	195,022	156,018	1	22,350	10	11.5	1	6,391	2	3.3	17,680	5,113
1306	FOREST	380(03M)	010-0101-008	07/25/85	09/23/85	617,896	463,422	3	61,997	10	10.0	1	6,200	1	1.0	46,498	4,650
1313	COLUMBIA	TWP.RD.468	136-5001-243	07/25/85	09/30/85	48,957	44,061	0	0	0	.0	0	0	0	.0	0	0
1315	PHILADELPHIA	67023(19M)	134-0266-008	08/01/85	08/08/85	1,194,600	955,680	0	0	0	.0	0	0	0	.0	0	0
1318	PHILADELPHIA	FALLS BRDG.	W36-0079-002	08/01/85	08/29/85	1,247,000	935,250	1	190,000	15	15.2	1	400,000	10	32.1	142,500	300,000
1334	ADAMS	01038(B03)	117-4002-299	08/15/85	08/27/85	183,758	147,006	0	0	0	.0	0	0	0	.0	0	0
1321	CENTRE	307(N027)	W33-5002-002	08/15/85	08/29/85	49,431	49,431	0	0	0	.0	0	0	0	.0	0	0
1325	ERIE	2721(02N)	A14-0068-024	08/15/85	08/19/85	110,000	110,000	0	0	0	.0	0	0	0	.0	0	0
1330	CENTRE	346(N01)	A14-0293-003	08/15/85	08/29/85	30,574	30,574	0	0	0	.0	0	0	0	.0	0	0
1328	FULTON	39(201)	141-0005-297	08/15/85	08/30/85	57,610	51,858	0	0	0	.0	0	0	0	.0	0	0
1326	BRADFORD	20(034)	136-0139-013	08/15/85	08/30/85	268,385	241,547	2	27,348	10	10.2	1	5,400	2	2.0	24,613	4,860
1332	CAMERON	12005(A01)	117-4002-289	08/15/85	08/30/85	496,302	397,042	1	53,898	8	10.9	0	0	0	.0	43,118	0
1331	BERKS	660(A03)	118-0363-002	08/15/85	09/03/85	135,283	108,226	1	36,325	10	26.9	0	0	0	.0	29,060	0
1333	LUZERNE	40084(001)	117-4002-297	08/15/85	09/03/85	181,219	144,975	1	35,325	10	19.5	0	0	0	.0	28,260	0

REPORT TYPE: YEAR-TO-DATE
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DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: OCT.1,1984 TO SEPT.30,1985

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1283	MERCER	238(01N)	A14-0059-036	07/11/85	08/15/85	229,655	229,655	1	23,000	10	10.0	2	4,600	2	2.0	23,000	4,600
1284	LEHIGH	39032(07M)	W36-A060-043	07/11/85	08/15/85	282,907	212,180	0	0	0	.0	0	0	0	.0	0	0
1285	CLARION	65(243)	141-0060-083	07/11/85	08/15/85	216,439	194,795	1	22,000	10	10.2	1	5,100	2	2.4	19,800	4,590
1286	VENANGO	69(019)	141-0077-048	07/11/85	08/15/85	212,057	190,851	1	23,897	10	11.3	0	0	0	.0	21,507	0
1280	BUTLER	73(302)	010-0023-056	07/11/85	08/19/85	321,662	241,247	1	33,174	10	10.3	1	6,460	2	2.0	24,881	4,845
1281C	BUTLER	73(302)	A14-0023-057	07/11/85	08/19/85	46,914	46,914	0	4,826	10	10.3	0	940	2	2.0	4,826	940
1307	PHILA-MONT	769(300)	044-0765-148	07/25/85	08/06/85	38,285,532	34,456,979	1	1924756	5	5.0	1	397,790	1	1.0	1732280	358,011
1295	CHESTER	142(RBR)	138-0016-085	07/25/85	08/15/85	48,447	43,602	0	0	0	.0	0	0	0	.0	0	0
1299	ERIE	271(03M)	A85-0074-001	07/25/85	08/15/85	1,656,390	1,407,932	1	166,547	10	10.1	1	33,310	2	2.0	141,565	28,314
1301	TIOGA	196(19M)	010-0131-073	07/25/85	08/15/85	586,986	440,240	2	58,699	10	10.0	1	11,740	2	2.0	44,024	8,805
1293	FAYETTE	117(07M)	A14-0003-068	07/25/85	08/19/85	60,250	60,250	2	6,898	10	11.4	0	0	0	.0	6,898	0
1298	MERCER	73(03M)	010-0058-018	07/25/85	08/19/85	885,047	663,785	1	88,698	10	10.0	1	53,084	2	6.0	66,524	39,813
1306	SNYDER	54067(04M)	W32-0385-004	07/25/85	08/19/85	388,679	291,509	1	42,972	10	11.1	1	8,326	2	2.1	32,229	6,245
1308	ALLEGHENY	70(064)	141-H889-005	07/25/85	08/19/85	167,674	150,907	0	0	0	.0	0	0	0	.0	0	0
1310	LEBANON	38059(B02)	117-4002-287	07/25/85	08/19/85	453,460	362,768	1	22,675	5	5.0	0	0	0	.0	18,140	0
1312	CHESTER	15097(RBR)	138-5001-212	07/25/85	08/21/85	60,607	54,546	0	0	0	.0	0	0	0	.0	0	0
1296	INDIANA	228(314)	141-0033-023	07/25/85	08/23/85	360,878	324,790	1	39,577	10	11.0	1	7,275	2	2.0	35,619	6,548

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DBE/WBE DATA
CONSTRUCTION PROGRAM
FROM: OCT.1,1984 TO SEPT.30,1985

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1297C	INDIANA	228(511)	010-0033-024	07/25/85	08/23/85	880,000	660,000	0	96,427	10	11.0	0	17,725	2	2.0	72,320	13,294
1309	BUCKS	1000(04R)	044-0952-156	07/25/85	09/04/85	4,699,122	4,229,210	4	644,076	13	13.7	1	94,000	2	2.0	579,668	84,600
1302	DAUPHIN	22017(716)	W36-0146-001	07/25/85	09/10/85	650,000	487,500	3	72,578	10	11.2	2	10,878	2	1.7	54,434	8,159
1311	UNION	BROWN ST.	117-4002-296	07/25/85	09/19/85	495,022	156,018	1	22,350	10	11.5	1	6,391	2	3.3	17,880	5,113
1300	FOREST	380(03M)	010-0101-008	07/25/85	09/23/85	617,696	463,422	3	61,997	10	10.0	1	6,200	1	1.0	46,498	4,650
1313	COLUMBIA	TWP.RD.468	138-5001-243	07/25/85	09/30/85	48,957	44,061	0	0	0	.0	0	0	0	.0	0	0
1315	PHILADELPHIA	67023 19M)	114-0266-008	08/01/85	08/08/85	1,194,600	955,680	0	0	0	.0	0	0	0	.0	0	0
1318	PHILADELPHIA	FALLS BRDG.	W36-5079-002	08/01/85	08/29/85	1,247,000	935,250	1	190,000	15	15.2	1	400,000	10	32.1	142,500	300,000
1334	ADAMS	01038(B03)	117-4002-290	08/15/85	08/27/85	183,758	147,006	0	0	0	.0	0	0	0	.0	0	0
1321	CENTRE	307(N02T)	W33-5002-002	08/15/85	08/29/85	49,431	49,431	0	0	0	.0	0	0	0	.0	0	0
1325	ERIE	272(02N)	A14-0068-024	08/15/85	08/29/85	110,000	110,000	0	0	0	.0	0	0	0	.0	0	0
1330	CENTRE	346(N01)	A14-0293-003	08/15/85	08/29/85	30,574	30,574	0	0	0	0	0	0	0	.0	0	0
1320	FULTON	39(201)	141-0005-297	08/15/85	08/30/85	57,620	51,858	0	0	0	0	0	0	0	.0	0	0
1326	BRADFORD	20(034)	138-0139-013	08/15/85	08/30/85	268,385	241,547	2	27,348	10	10.2	1	5,480	2	2.0	24,613	4,860
1332	CAMERON	12005(A01)	117-4002-289	08/15/85	08/30/85	496,302	397,042	1	53,898	8	10.9	0	0	0	.0	43,118	0
1331	BERKS	660(A03)	118-0363-002	08/15/85	09/03/85	135,283	108,226	1	36,325	10	26.9	0	0	0	.0	29,060	0
1333	LUZERNE	40084(001)	117-4002-297	08/15/85	09/03/85	181,219	144,975	1	35,325	10	19.5	0	0	0	.0	28,260	0

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1329	LACKAWANNA	439(17M)	075-0272-007	08/15/85	09/06/85	1,577,813	1,183,360	3	157,804	10	10.0	1	109,796	2	7.0	118,353	82,347
1327	DAUPHIN	140(724)	010-0165-002	08/15/85	09/10/85	382,955	287,216	4	38,363	10	10.0	1	10,000	2	2.6	28,772	7,500
1328	PIKE	8(214)	010-0172-018	08/15/85	09/13/85	759,796	569,847	4	77,189	10	10.2	1	17,328	2	2.3	57,892	12,996
1322	LYCOMING	20(061)	W32-L013-003	08/15/85	09/27/85	465,644	349,233	2	46,565	10	10.0	0	0	0	.0	34,924	0
1339	BEAVER	347(008)	141-0042-004	08/29/85	09/13/85	84,390	75,951	0	0	0	.0	0	0	0	.0	0	0
1348	YORK	66187(B02)	117-4002-288	08/29/85	09/13/85	178,323	142,658	3	17,840	10	10.0	0	0	0	.0	14,272	0
1340	CAMBRIA	62(87M)	195-0049-077	08/29/85	09/16/85	880,178	836,169	1	88,702	10	10.1	1	10,000	1	1.1	84,267	9,500
1342	MCKEAN	211(A01)	118-0109-007	08/29/85	09/16/85	3,397,929	2,718,343	2	343,625	10	10.1	1	69,404	2	2.0	274,900	55,523
1341	VENANGO	A190(01S)	141-0097-006	08/29/85	09/18/85	68,647	61,782	1	8,679	10	12.6	0	0	0	.0	7,811	0
1344	MONTGOMERY	178&198(22N	A14-0249-030	08/29/85	09/18/85	216,871	216,871	1	21,695	10	10.0	1	4,641	2	2.1	21,695	4,641
1337	NORTHUMBERLAN	182(17S)	141-0005-300	08/29/85	09/20/85	66,499	59,849	2	6,376	10	9.6	0	0	0	.0	5,738	0
1345	MONTGOMERY	178(07N)	010-0249-031	08/29/85	09/20/85	444,246	333,186	1	44,564	10	10.0	1	15,157	2	3.4	33,423	11,368
1338	MERCER	238(01S)	141-R028-002	08/29/85	09/30/85	83,335	75,002	1	8,528	10	10.2	0	0	0	.0	7,675	0
1343	PHILADELPHIA	67009(40N)	010-0234-046	08/29/85	09/30/85	246,138	184,604	1	24,628	10	10.0	1	4,935	2	2.0	18,471	3,701
1347	ALLEGHENY	395(09M)	W36-H805-004	08/29/85	09/30/85	1,287,702	965,777	2	155,158	12	12.0	1	26,000	2	2.0	116,369	19,500
1351	INDIANA	32112(316)	138-5001-193	09/11/85	09/30/85	18,035	16,232	0	0	0	.0	0	0	0	.0	0	0
1352C	INDIANA	32112(316)	138-0102-003	09/11/85	09/30/85	40,940	36,846	0	0	0	.0	0	0	0	.0	0	0
TOTAL						834648336	704092149	203	90319104			114	22059519			75858462	18522865

ACTUAL DBE % 10.8
ACTUAL WBE % 2.64
FEDERAL DBE % 10.8
FEDERAL WBE % 2.63

REPORT NO. 2
TOTAL PROJECTS = 527
OCTOBER 1, 1985 - 9:54 AM
PREPARED BY: JOHN F.BLANCH
PHONE: 783-6414

MONTHLY DISADVANTAGED BUSINESS ENTERPRISE (DBE) STATUS REPORT — RIGHT-OF-WAY

Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM: SEPT 1985
PREPARED BY EG ROSE DATE 9-27

FY-85 (Federal) MONTH	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To DBE Firms	Federal Share Of Committed Amount DBE Firms	State Share Committed Amount DBE Firms	% DBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% DBE
October	21,060	18,751	2,309	0	0	0	0	18,751	0	0
November	24,718	22,380	2,338	0	0	0	0	41,131	0	0
December	118,152	104,348	13,804	0	0	0	0	145,479	0	0
January	27,170	22,972	4,198	0	0	0	0	168,451	0	0
February	6,955	6,010	945	0	0	0	0	174,461	0	0
March	26,206	23,375	2,831	0	0	0	0	197,836	0	0
April	6,516	5,822	694	0	0	0	0	203,658	0	0
May	82,435	74,333	8,602	0	0	0	0	277,991	0	0
June	47,815	41,264	6,551	0	0	0	0	319,255	0	0
July	0	0	0	0	0	0	0	319,255	0	0
August	15,377	64,751	10,626	0	0	0	0	384,006	0	0
September	12,800	10,240	2,560	0	0	0	0	394,246	0	0

MONTHLY WOMEN BUSINESS ENTERPRISE (WBE) STATUS REPORT

Right-of-way

Bureau of Equal Opportunity
Room 109, T&R Building

Due 4th of each month

FROM: Sept 1985

PREPARED BY EG Kost DATE 9/...

	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To WBE Firms	Federal Share Of Committed Amount WBE Firms	State Share Committed Amount WBE Firms	% WBE	Cumulative Totals Fiscal Year		
							Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% WBE
	31,068	18,751	2,309	0	0	0	18,751	0	0
	39,713	22,380	2,338	0	0	0	41,131	0	0
	112,152	104,348	13,804	0	0	0	145,479	0	0
	21,170	23,972	4,198	0	0	0	168,451	0	0
	6,955	6,010	945	0	0	0	174,461	0	0
	26,206	23,375	2,831	0	0	0	197,836	0	0
	6,516	5,822	694	0	0	0	203,658	0	0
	82,935	74,333	8,602	0	0	0	277,991	0	0
	48,815	41,264	6,551	0	0	0	319,255	0	0
	0	0	0	0	0	0	319,255	0	0
	15,327	64,751	10,626	0	0	0	384,006	0	0
	5,000	10,240	2,560	0	0	0	394,246	0	0

MONTHLY DISADVANTAGED BUSINESS ENTERPRISE (DBE) STATUS REPORT

Bureau of Design
Consultant Agreement Divsio

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM:
PREPARED BY D. Mansky DATE 10-7-

FY-85 (Federal) (1985)	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To DBE Firms	Federal Share Of Committed Amount DBE Firms	State Share Committed Amount DBE Firms	% DBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% DBE
October		8,150,973.			1,605,282.		1969	8,150,973.	1,605,282.	19.6
November		3,945,649.			504,777.		1279	12,096,622.	2,110,059.	17.4
December		9,924,609.			1,794,463.		1808	22,021,231.	3,904,522.	17.7
January		4,309,589.			780,812.		1811	26,330,820.	4,685,334.	17.7
February		959,659.			147,386.		15.35	27,290,479.	4,832,720.	17.7
March	2,580,670.	2,193,493.	387,177.	192,241.	151,405.	40,836.	6.9	29,483,972.	4,984,125.	16.90
April	2,330,141.	1,914,778.	415,363.	441,160.	417,089.	64,071.	21.78	31,398,750.	5,401,214.	17.2
May	5324,844.	3,851,840.	1,473,004.	969,754.	806,194.	163,000.	20.94	35,250,590.	6,207,968.	17.61
June	2,020,437.	1,713,650.	306,787.	394,816.	329,552.	65,264.	1923	36,964,240.	6,537,520.	17.6
July	1,576,328.	1,347,402.	228,926.	225,651.	197,863.	27,788.	14.68	38,311,642.	6,735,383.	17.58
August	3,977,118.	3,230,407.	746,711.	849957.	731,988.	117,969.	22.65	41,542.049.	7,467,371.	17.7
September	4,488,958.	8,037,747.	1,851,211.	1,596,737.	1,321,060.	275,877.	16.44	49,579,796.	8,788,421.	17.7

MONTHLY WOMEN BUSINESS ENTERPRISE (WBE) STATUS REPORT

Bureau of Design
FROM: Consultant Agreement Division
PREPARED BY D. Mackey DATE 10/78

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FY-85 (Federal) (State)	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To WBE Firms	Federal Share Of Committed Amount WBE Firms	State Share Committed Amount WBE Firms	% WBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% WBE
October		8,150,973.		0	0	0	0	8,150,973.	0	0
November		3,945,649.		0	0	0	0	12,096,622.	0	0
December		9,924,609.		0	0	0	0	22,021,231.	0	0
January		4,309,589.		0	0	0	0	26,330,820	0	0
February		959,659.		0	0	0	0	27,290,479.	0	0
March		2,193,493.		0	0	0	0	29,438,972	0	0
April		1,914,778.		0	0	0	0	31,378,750.	0	0
May		3,851,840.		0	0	0	0	35,250,590.	0	0
June		1,713,650.		0	0	0	0	36,964,240.	0	0
July		1,347,402.		0	0	0	0	38,311,642.	0	0
August		3,230,407.		0	0	0	0	41,542,049.	0	0
September	9,088,758.	8,037,747.	1,851,211.	170,741.	153,667.	17,074.	1.91	49,579,796.	153,667.	.31

MONTHLY DISADVANTAGED BUSINESS ENTERPRISE (DBE) STATUS REPORT

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM: Research & Special Studies
PREPARED BY: [illegible] DATE: 1/4/85

FY-85 (Federal) PART?	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To DBE Firms	Federal Share Of Committed Amount DBE Firms	State Share Committed Amount DBE Firms	% DBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% DBE
October	139,434.00	139,434.00	—	—	—	—	—	139,434.00	—	—
November	—	—	—	—	—	—	—	139,434.00	—	—
December	584,787.80	520,729.00	69,058.80	—	—	—	—	660,163.00	—	—
January	1,613,350.00	1,371,347.00	242,002.50	—	—	—	—	2,031,510.50	—	—
February	—	—	—	—	—	—	—	2,031,510.50	—	—
March	114,900.00	96,900.00	17,100.00	—	—	—	—	2,128,410.50	—	—
April	174,985.00	148,737.25	26,247.75	—	—	—	—	2,277,147.75	—	—
May	171,677.46	145,925.84	25,751.62	—	—	—	—	2,423,073.59	—	—
June	334,483.60	284,735.55	50,247.45	—	—	—	—	2,707,809.14	—	—
July	—	—	—	—	—	—	—	2,707,809.14	—	—
August	549,078.00	549,078.00	—	—	—	—	—	3,256,887.14	—	—
September	97,311.00	82,719.45	14,591.55	—	—	—	—	3,339,606.59	—	—

MONTHLY WOMEN BUSINESS ENTERPRISE (WBE) STATUS REPORT

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM: Research & Special Studies
PREPARED BY: Jeanne Nicola DATE: 10/

FY-85 (Federal) Month	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To WBE Firms	Federal Share Of Committed Amount WBE Firms	State Share Committed Amount WBE Firms	% WBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% WBE
October	139,434.00	139,434.00	—	—	—	—	—	139,434.00	—	—
November	—	—	—	—	—	—	—	139,434.00	—	—
December	589,787.80	520,729.00	69,058.80	—	—	—	—	660,163.00	—	—
January	1,613,350.00	1,371,347.00	242,002.50	—	—	—	—	2,031,510.50	—	—
February	—	—	—	—	—	—	—	2,031,510.50	—	—
March	114,900.00	96,900.00	17,100.00	—	—	—	—	2,128,410.50	—	—
April	174,993.00	148,737.25	26,247.75	—	—	—	—	2,277,147.75	—	—
May	171,677.46	145,925.84	25,751.62	—	—	—	—	2,423,073.59	—	—
June	334,453.32	284,735.55	50,247.45	—	—	—	—	2,707,809.14	—	—
July	—	—	—	—	—	—	—	2,707,809.14	—	—
August	548,078.00	548,078.00	—	—	—	—	—	3,256,887.14	—	—
September	82,711.45	82,711.45	14,577.55	—	—	—	—	3,339,598.59	—	—

MONTHLY DISADVANTAGED BUSINESS ENTERPRISE (DBE) STATUS REPORT

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM: Program Center
PREPARED BY R. Seaman DATE 8/7/85

FY-85 (Federal) MONTH	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To DBE Firms	Federal Share Of Committed Amount DBE Firms	State Share Committed Amount DBE Firms	% DBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% DBE
October										
November										
December										
January										
February										
March										
April										
May										
June										
July '85	2,854,201	2,262,821	400,580	22,191.07	18,867.41	3,328.66	1%	2,262,821	18,867.41	1%
August	—	—	—	4717.21	4,001.63	707.58	0.2%	2,262,821	22,872.04	1%
September										

MONTHLY WOMEN BUSINESS ENTERPRISE (WBE) STATUS REPORT

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM: Program Center
PREPARED BY R. Seaman DATE 10/1/85

FY-85 (Federal) FAUTH	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To WBE Firms	Federal Share Of Committed Amount WBE Firms	State Share Committed Amount WBE Firms	% WBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% WBE
October										
November										
December										
January										
February										
March										
April										
May										
June										
July	2,854,201	2,262,821	400,580	10,993.20	9344.22	1,648.98	0.5%	2,262,821	9344.22	0.4%
August	—	—	—	3220.29	2737.25	483.04	0.1%	2,262,821	12,091.47	0.5%
Sept.										

MONTHLY DISADVANTAGED BUSINESS ENTERPRISE (DBE) STATUS REPORT

TO: Bureau of Equal Opportunity
Room 109, T&S Building

Due 4th of each month

FROM: BUREAU OF EQUAL OPPORTUNITY
PREPARED BY: L. JAMISON DATE

Month (Federal Fiscal Year)	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed To DBE Firms	Federal Share Of Committed Amount DBE Firms	State Share Committed Amount DBE Firms	% DBE	Cumulative Totals Fiscal Year		
								Federal-Aid Share Of Contracts Awarded	Federal-Aid Share Committed Amount	% DBE
October	-0-	-0-	-0-	-0-	-0-	-0-		-0-	-0-	
November	-0-	-0-	-0-	-0-	-0-	-0-		-0-	-0-	
December	100,000	100,000	-0-	100,000	100,000	-0-	100	100,000	100,000	100
January	-0-	-0-	-0-	-0-	-0-	-0-		100,000	100,000	100
February	360,000	300,000	60,000	360,000	300,000	60,000	100	400,000	400,000	100
March	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100
April	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100
May	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100
June	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100
July	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100
August	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100
September	-0-	-0-	-0-	-0-	-0-	-0-		400,000	400,000	100

MONTHLY WOMEN BUSINESS ENTERPRISE REPORT FOR 1968

To: Bureau of Equal Opportunity
Room 109, 746 Building

For 4th of 12th Month

FROM: BUREAU OF EQUAL OPPORTUNITY
PREPARED BY L. TAMISON

Month	Total Dollars Federal-Aid Contracts Awarded	Total Dollars Federal Share Contracts Awarded	Total Dollars State Share Contracts Awarded	Total Dollars Committed to WBE Firms	Federal Share Committed Record WBE Firms	State Share Committed record WBE Firms	% WBE	Cumulative Totals Fiscal Year: Federal-Aid Share of Contracts Awarded	Federal-Aid Share Committed to WBE	% WBE
October	-0-	-0-	-0-	-0-	-0-	-0-		-0-	-0-	
November	-0-	-0-	-0-	-0-	-0-	-0-		-0-	-0-	
December	100,000	100,000	-0-	-0-	-0-	-0-		100,000	-0-	
January	-0-	-0-	-0-	-0-	-0-	-0-		100,000	-0-	
February	360,000	300,000	60,000	-0-	-0-	-0-		400,000	-0-	
March	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	
April	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	
May	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	
June	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	
July	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	
August	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	
September	-0-	-0-	-0-	-0-	-0-	-0-		400,000	-0-	

Mr. MITCHELL. Our next panel will be the Wisconsin Department of Transportation, Mr. Lowell Jackson, secretary of the Wisconsin Department of Transportation, and Mr. Dave Manning, the MBE Program director. Mr Manning is not here?

Mr. JACKSON. No; I am solo today.

Mr. MITCHELL. All right. Thank you very much for taking your time to be with us.

We have your testimony.

Mr. JACKSON. Yes.

Mr. MITCHELL. And if you could maybe give us just the highlights, as the other panel did.

Mr. JACKSON. Indeed, I will.

Mr. MITCHELL. Thank you.

TESTIMONY OF LOWELL B. JACKSON, SECRETARY, WISCONSIN DEPARTMENT OF TRANSPORTATION

Mr. JACKSON. The visit of your charming associate, Mrs. Bryant, to Wisconsin last summer, gave us an opportunity to look at our program during the period of time after you, sir, visited Milwaukee in July 1983, during which time the program was in its initial throes of establishment. And I think and I hope that it can be recognized that the State of Wisconsin in those 2 years has made progress.

We have, we believe, moved from what at that time was widespread concern about the concept to acceptance of the goals of the DBE program; from apprehension of how to implement the program without causing serious disruption, to acceptance that this program can be made to work; from a potentially disruptive atmosphere of polarization between minority and nonminority firms, to a spirit today of cautious cooperation.

In that process of 2 years, or actually somewhat longer, we have increased the flow of funds to minority firms from 1.6 percent of total Federal contract dollars in 1982, to 11 percent at the end of this recent Federal fiscal year, 1985. That, in dollars, is an eightfold increase from $1.7 to $13.6 million.

Our State has a minority population of only 5.6 percent, and virtually all of that is concentrated in three counties in southeastern Wisconsin.

In this program, we, along with the Wisconsin division of the Federal Highway Administration, played an active role by constantly emphasizing to all of the players that this program will be implemented in both the spirit and the letter of the law.

In the process of doing that, obviously we had to get informed consent from a number of these players, and we did so by providing the contracting community, primarily, along with the department, the opportunity to work cooperatively with everyone. And one of the most effective and productive mechanisms that we have used to this end has been our DBE transportation advisory committee, we call it Trans-AC.

This is composed of minority and nonminority prime and subcontractors, along with Wisconsin Department of Transportation and Federal Highway Administration staff. This committee provides a

regular and informal forum for the exchange of ideas and resolution of many of these issues before they become serious problems.

I have, personally, participated in a number of these sessions, which last sometimes 2 or 3 days, and I assure you that there is no dancing around. All of the pain and success that is abroad is brought to the attention of the people around that table, and it has immeasurably helped the department in establishing policies and procedures that are legal and acceptable to the players who have to work together in order for this program to work.

One of the most difficult problems that we have had to face to date, and I think it is probably true in other States, has to do with the nature of the certification process prior to the time that this program came into effect after the Surface Transportation Assistance Act of 1982. Back then in our State, and most others, certification as a minority business was largely self-certification.

It became obvious to us in our initial investigation as this program came along that people came forward who were clearly fronts, and people came forward who were clearly brokers; that is, "for 5 percent, I will lend you my minority status." And it became quite clear that to be fair to those yet to come into the program and to those that were in it legitimately that we had to redo our certification policy, which we did.

In January 1984, we fully implemented a revised annual certification program, which we think has been very effective in weeding out ineligible firms and keeping ineligible firms from coming into the program.

Since then, we have either denied certification or decertified 102 firms. During that period, however, since 1984, our DBE awards have gone from 5 percent to 11 percent. The number of DBE firms were then 148, and despite 102 decertifications or denials, there are now 158 DBE firms in 1985 which are qualified for the program. That does not mean they all participate, as an earlier speaker said. Many of these construction firms are not primarily engaged in highway work. But, nonetheless, they are eligible in our State.

Ironically, we have drawn some criticism regarding this aggressive certification policy. On the one hand by those who say, "Hey, why are you doing this? All it is doing is hurting your ability to make the goal." On the other hand, there was some misinterpretation by some in the public arena. I can recall the pain and suffering that we had when we saw the headline in a local paper that we had an aggressive policy of denying minorities the right to participate in this program by decertifying what we regarded as fronts. It took some education of the public, the media and the industry to get to the point where our certification program was accepted as essential.

I will not go over the certification process except to tell you that it involves the regular operation of our construction and design and EEO labor compliance structure. In Wisconsin, our department is highly decentralized. We do most of our work in our eight transportation districts, including design and construction compliance.

A new DBE firm will first see someone from a district who will investigate that firm; a rather substantial form must be filled out, and we do provide assistance in filling this form out. I have provided copies with my prepared statement. It does appear to be bureau-

cratic and lengthy, but it has in it the necessary information that we must have in order to determine that we actually have a legitimate DBE doing the work.

Despite this aggressive certification and review effort, and the fact that we have decertified or denied certification of a large number of firms, we have not yet had any of these decisions challenged either in court or within the USDOT challenge procedure, not just not overturned, not gotten that far.

We feel this demonstrates the fairness of our procedures. We can make the tough decisions, they are balanced, and the lawyers for the people involved as potential protestants in each case have invariably advised their clients that the due process that we engage in is substantial enough that it will probably not reach a successful overturning in either of those other two forums.

In Wisconsin, as I think in many other States, over 90 percent of our minority participation is obtained through subcontracting with prime contractors, which is the reason why we must have cooperation in that industry. We attempt to assign reasonable goals on each individual contract project in which DBE's can participate. Most of our minority population, as I indicated, is located in southeastern Wisconsin. So, as does Pennsylvania in areas of high concentration, we assign goals there of 15 to 20 percent customarily on individual contracts. We have assigned as high as a 45-percent DBE goal on a selected project in Milwaukee.

The assignment of these goals requires the department to have the knowledge of the characteristics of the work to be accomplished and, as well, the capability, the known capability of the DBE community to work on particular kinds of projects such as steel, traffic control, concrete, bituminous paving, and so forth.

This goal assignment begins out in our decentralized offices where they are in a position to know more about opportunities in their areas, and each of the EEO compliance officers works with the design engineers to determine specific opportunities for DBE participation. And then those recommendations are transferred to the central office where they are reviewed and adjusted, if necessary, by the chief construction engineer and, finally, by David Manning, our minority programs director.

It has been our experience, as in the case of Pennsylvania, that the assigned goals are usually exceeded in actual overall contract compliance by an average of about 5 percent. We feel that the matching up of the capability with the specific project balances out pretty well in the end.

These procedures have enabled us to provide $9.8 million in the Federal portion in contracting opportunities to DBE's in Federal fiscal 1984, and $13.6 million in Federal fiscal year 1985, and that is 7.5 percent and 11 percent minority participation in those 2 years.

It is important to note in—yes, sir.

Mr. MITCHELL. Excuse me, I have just one call to make. Congressman Hayes will preside.

Mr. JACKSON. I will save the good part for your return.

It is important to note that these figures represent a net value of DBE participation after the department voluntarily eliminated the counting of a number of ineligible firms and the contract dollars

best copy available

that they have been engaged in. As a result of this aggressive certification policy, we have actually made it more difficult to meet the DBE targets.

In 1984, had we not gone through that process of honestly reducing our capacity, we would have shown an over 10-percent production. Because we were concerned about the question of legitimate goals, we requested and received a reduction in our goals for Federal fiscal year 1985 to 9 percent.

Now, the consideration of a waiver is not taken into account lightly. The consideration of a waiver from 10 to 9 percent begs the question, "Why bother, that is so close." Let me describe some of the reasons behind this and why we think the process of doing it perhaps has been a benefit to people throughout the country in dealing with the legitimacy question.

The intent of the Surface Transportation Act of 1982 is to increase participation. But as we strictly enforce the eligibility standards, we must recognize the need for a good faith effort determination, good faith efforts made by contractors who honestly wish to involve DBE participants. Our good faith effort evaluations, we think, are an important focal point in assuring fair treatment of the prime contractors in a manner that does not encourage cheating.

There is some evidence around the country and in my association with other organizations, including AGC and ARTBA, that many of the prime contractors throughout the country are both concerned about and knowledgeable of cheating that occurs because of the belief that an arbitrary goal is established and enforced and will not, in fact, be departed from, and that the only demonstration of good faith is, in fact, to meet the exact assigned goal.

In my view, that particular misunderstanding is at the root of the difficulty that this program, 105(f), is having with the prime contracting community.

We go through a good faith effort determination, and we mean a real good faith effort, not just a check list that you go through and show a few pieces of paper you sent out in mailings. We are talking about good faith effort that the department itself monitors along the way and assists the prime contractors in going through.

In the process of going through a good faith effort we are reducing about 5 percent the amount of the goals originally assigned on a particular total letting. That reduction must be taken into account in determining and reaching the goals of the State.

Now, nonperformance by DBE firms has gotten a pretty good working over today, and I think I want to make it clear particularly as a former faculty member that was charged with teaching people in the construction industry about the needs required to operate a small business in a very, very tough and low profit margin area that the nonperformance by DBE firms is no more serious or severe than the nonperformance by other firms that are new to the business. But nonperformance by firms other than DBE firms new to the business, in fact, do not show up in the accounting of this program.

The Small Business Administration, which I think is also under the purview of this committee, estimates that 50 percent of all new small businesses will fail within the first 5 years. So, we would

expect to find, particularly where we are talking as we are in many cases about new businesses, we would expect to find some failure.

Interestingly enough, the failure rate or nonperformance in our contracts by the DBE's totally comes out to only about 3 percent instead of the 10 percent you might expect based upon the SBA standard. One of the reasons that occurs is because we try very hard to replace a nonperforming DBE firm on the contract with another DBE firm. And, in addition to that, we provide management and technical assistance to DBE's on a project-by-project basis, as well as an overall general basis, as do the prime contractors.

Our conclusion last fiscal year to seek out a waiver dealt with the question of credibility with the contractors themselves. If we really felt we were not going to make it to 10 percent, and the reasons were because of our own activity in aggressively decertifying fronts, and in our own recognition—even though it is less than what might be expected—of nonperformance, these reductions of legitimate performance had to reflect a reduction in future capacity.

In order for us to establish that there is a nonarbitrary method of dealing with the failure to reach goals, we requested a waiver from 10 to 9 percent. It went through all of the chairs, up to and including USDOT, and that waiver was granted. I am happy to report that even though we believe that our conclusions were correct and that the USDOT awarding of the waiver was correct, there were no compromises in the program integrity. We did not encourage contractors to cheat in order to simply meet numerical goals, but we still were able to achieve 11 percent participation in Federal fiscal year 1985 and, therefore, of course, are not requesting a waiver for 1986.

But because we set reasonable goals initially, taking into account the real factors we are dealing with, we are more confident that our result was achieved legitimately.

One of the other considerations that we have, as was also mentioned by the gentleman from Pennsylvania, is that a substantial fraction of the money in the highway program is State funds, and we are not allowed to count the minority enterprise that is associated with those, even though the same percentage applies to all the dollars, whether they are Federal or local. This program really is leveraging a much higher participation by minorities than just the dollars that are measured by it and reported to you.

In addition to that, the State of Wisconsin has a minority preference program of its own which makes it possible for minority firms, for instance, to obtain more State contracts other than highway projects, and in some cases makes these other projects more attractive to the contracting firms.

In addition to that, the Milwaukee metropolitan sewerage district is in the midst of a very large, more than a billion-dollar sewer reconstruction program. That is also subjected to Federal MBE goals, and other local governmental bodies in Wisconsin such as Milwaukee County are also aggressively seeking minority participation in their own construction programs.

firms to the nonminority contractors for the subcontracting or joint venture arrangements.

We also provide sample joint venture agreements so that when we look at it again, we don't find we have inadvertently established a front.

We, like the other States, provide support services. Much of the funds for that come from the Federal Highway Administration. A lot of it is in outreach and identification of additional minority firms or those who could be, evaluation of their various capabilities, and then, in many cases, selective improvement programs, such as educational programs at the desire of the minority business.

In any system it is said that the biggest pieces matter most, so clearly the dollars that go into construction are the most important in terms of establishing percentages. But in the other areas, as well—really one of the easiest as it turns out—we make an effort to get larger minority participation by requiring all consultant design contracts to carry a mandatory minimum of 10-percent DBE participation. The actual participation in that category was about 30-percent DBE for the Federal fiscal year of 1984.

That will be hard to maintain at 30 percent because, like many other States who are not increasing their internal staff, we are doing more and more outside consulting, and so the amount of outside consulting is going up at a relatively rapid rate. But, nonetheless, we maintain the 10-percent DBE participation on all design contracts.

WISDOT has, since long before this program, substantially divided our projects into small contracts. We do that, as a matter of fact, in order to get better prices. It has worked well. We have large projects, but very few of them are not divided up. About 25 percent of all our projects are contracts of $100,000 or less. And under our prequalification system for prime contractors, it is relatively easy to get prequalified to do work at that level.

One indication that the existing DBE capability was already fully occupied before the 1982 act is that relatively few minority firms before the 1982 act took advantage of this small contract availability indicating a need for some extra effort to get people out from being subcontractors to prime contractors other than just having the projects easily available to them for bidding.

Well, we are aware of the barriers. I think we have taken some steps to try to overcome them. Wisconsin, like some other States, does not require bonding of subcontractors, that is covered by the bond of the contractor, so that the public interest is still preserved. We have provided through supportive services a good deal of advice on financial matters, including bonding, to those who are to become prime contractor.

I am happy to report to you that we are now getting some contractors moving into the prime contractor category with some assurance. The president of our Minority Contractors Association, Mr. John Bowles, whom I know you met in Milwaukee, Congressman Mitchell, is one of those who is now prequalified as a prime contractor. He is a very, very important part of our TRANS-AC committee that I mentioned earlier. And I am also happy to report to you, as my testimony indicates, that he received as a minority

There is a great deal of competition in those southeastern counties in Wisconsin where the heaviest DBE concentration is.

It should be no secret then, that in order to continue to meet the goals and to increase the participation, additional capacity must be established, not just for us but for the other folks who are competing for minority firms.

I would like to discuss with you a number of the ways that we have already undertaken to try to establish additional capacity. A mentor-protege program was mentioned earlier. We believe that we invented that program in Wisconsin on the basis that Federal Highway's initial design of it came back to us several months later looking exactly like our own.

This program essentially is one under which an experienced firm assists and counsels a fledgling DBE firm until it is able to compete by itself, or constrained by a designated period of time. We do not want this and will not allow this to be a substitute for a front or wholly owned subsidiary kind of relationship.

The mentor firm provides guidance, advice, and assistance under a written agreement which specifies exactly what that will be in order to make it legal. This can be financial, technical, managerial, equipment, personnel assistance, all of these things which, as a matter of fact, have been received usually as part of a family operation in a nonminority construction firm, but now is available through this program to new firms that are being established.

We do not want the mentor-protege program to disadvantage the existing DBE's by essentially having a favorable kind of a competitive arrangement for people who are in the mentor-protege program as opposed to those who are not.

One of the unintended results of the program, because of the heavy concentration in the labor intensive activities of the new firms in the DBE area, because they are advantaged by the program, has inevitably been some distortion of the existing nonminority specialty contractor use.

In our mentor-protege program, we concentrate on those nonlabor-intensive, nontraditional kinds of activities, we have three of them going right now; one in asphalt paving, which is a nontraditional, nonlabor intensive, very heavily equipment-intensive area; we have one going in storm sewers; and another in general highway contracting.

We believe our mentor-protege program can soften a little bit the blow on the existing speciality subcontractors by not bringing more and more people into the mentor-protege relationship except those in nontraditional areas.

But in addition, recognizing the effect on the nonminority subcontractor specialities, we do encourage joint ventures, again to bring the experience and the capability, financial and material and otherwise, of the existing nonminority speciality firm into a position where it can help, through subcontracting and joint development arrangements, the minority contractors. Most of the DBE firms are new firms coming into the business, who perhaps can use this advice and help. We do not participate directly in the formation of joint venture, but we do, through David Manning, facilitate that endeavor by maintaining the directory for the referrals of

contractor the MBE award for 1985 from the U.S. Department of Transportation. So, we are very proud of him and his part in leading the way, if you will, in improving the lot of the minority contractors in Wisconsin.

There are some things I think we still have to do, some problem we have not solved, and I was, as you were, impressed by Pennsylvania's presentation and got a few good ideas. I do hope that we get the advantage of that material, as I know will other States. We do need to find ways to still continue to develop more minority firms as prime contractors, elevating them out of the subcontractor category.

We need to find more ways—and this is a political matter I think more than a financial one—to increase minority employees visible within the contracts performed by minority businesses. Many of our minority legislators are frustrated and puzzled as they drive back and forth between Madison and Milwaukee to see lots of contracts out there in which there is on paper and reality a significant level of minority participation, but it is proprietary participation and not necessarily participation on the job site. I know that has come to your attention before, and I think it will be improved as the proprietors become stronger. But right now it still is a lack, I believe.

And I still think we are going to have to continue, as I say as a former educator, to provide to small contractors, be they minority or not, with some of the tools to develop skills necessary to make sure that they can compete in this very tough business.

We need to find ways to provide working capital to DBE firms. We do, through our processes, hurry up the payment by primes to the subs. No one has to wait more than 10 days to 2 weeks to get their money. But the mobilization idea from Pennsylvania is an intriguing one and perhaps it is one that we can adopt, as well.

Finally, I mention again what I think is one of the scratchy areas that will have to be dealt with by States, and that is the unintended harm that the program has brought and could bring without mitigation to existing firms in the low capital intensive segments of the industry.

The American Association of State Highway and Transportation Officials [AASHTO] at their recent meeting in Seattle has initiated a study to examine some of the barrier problems and to recommend some of the steps that can be taken to resolve these difficult issues.

I am encouraged by Pennsylvania's presentation today and by the fact that Tom Larson, the secretary of transportation in Pennsylvania is the incoming president of AASHTO. No doubt many of these good ideas from States that have had successes can be shared with others and thereby ameliorate some of their concerns. As a member of the task force appointed to make such recommendations, and also as a member of the AASHTO-AGC-ARTBA joint committee, I expect to continue to attempt to influence this program toward a legitimate end, both in support of congressional intent and the integrity of the highway construction industry.

Thank you, Mr. Chairman, for the opportunity to be here. I would be happy to entertain your questions.

[Mr. Jackson's prepared statement follows:]

PREPARED STATEMENT OF LOWELL B. JACKSON, SECRETARY, WISCONSIN DEPARTMENT OF TRANSPORTATION

GOOD MORNING MR. CHAIRMAN, AND MEMBERS OF THE SUBCOMMITTEE. IT IS A PLEASURE FOR ME TO APPEAR BEFORE YOU TODAY TO SHARE THE EXPERIENCE OF THE WISCONSIN DEPARTMENT OF TRANSPORTATION WITH THE DISADVANTAGED BUSINESS ENTERPRISES PROGRAM IN THE FEDERAL HIGHWAY PROGRAM.

IT WAS JUST OVER TWO YEARS AGO, IN JULY OF 1983, THAT REP. MITCHELL VISITED WITH US IN MILWAUKEE AT A HASTILY CALLED CONFERENCE TO DISCUSS THE IMPLEMENTATION OF SECTION 105(F) OF THE SURFACE TRANSPORTATION ACT OF 1982. I REMEMBER THE DAY WELL. IT WAS A MEETING CHARACTERIZED BY CAUTIOUS OPTIMISM FOR SOME AND SUBDUED APPREHENSION FOR OTHERS. MINORITY AND NON-MINORITY CONTRACTORS ALIKE WERE VERY UNCERTAIN ABOUT THE EFFECT OF THE NEW LAW AND WERE EXTREMELY ANXIOUS TO SORT OUT JUST WHAT THE NEW PROVISIONS WOULD DO FOR THEM AND TO THEM IN THEIR OWN OPERATIONS. AFTER A FEW REMARKS FROM REP. MITCHELL, MYSELF AND A FEW STATE AND LOCAL OFFICIALS, THE MEMBERS OF WISCONSIN'S HIGHWAY CONTRACTING COMMUNITY TRULY GOT DOWN TO THE BUSINESS

AT HAND OF UNDERSTANDING THE REQUIREMENTS OF THE PROGRAM AND FIGURING OUT HOW TO MAKE IT WORK IN WISCONSIN.

SINCE THAT TIME, JUST TWO YEARS AGO, WE HAVE MADE PROGRESS. I CAN REPORT TO YOU TODAY THAT WE HAVE MOVED FROM WIDESPREAD CONCERN ABOUT THE CONCEPT, TO ACCEPTANCE OF THE GOALS OF THE DBE PROGRAM; FROM EXTREME APPREHENSION ABOUT HOW TO IMPLEMENT THE PROGRAM WITHOUT CAUSING SERIOUS DISRUPTION, TO ACCEPTANCE THAT A DBE PROGRAM CAN BE MADE TO WORK; FROM A POTENTIALLY DISRUPTIVE ATMOSPHERE OF POLARIZATION BETWEEN MINORITY AND NON-MINORITY FIRMS, TO A SPIRIT OF CAUTIOUS COOPERATION THAT IS ALL THE MORE REMARKABLE FOR THE DEGREE OF CHANGE THAT HAS OCCURRED. IN THE PROCESS WE HAVE INCREASED THE FLOW OF FUNDS TO MINORITY FIRMS FROM 1.6% OF TOTAL FEDERAL CONTRACTS IN FEDERAL FISCAL YEAR 1982 TO 11.0% IN FEDERAL FISCAL YEAR 1985. THAT IS AN EIGHT-FOLD INCREASE FROM $1.7 MILLION TO $13.6 MILLION. WE HAVE ACHIEVED THIS IN A STATE WITH A MINORITY POPULATION OF ONLY 5.6%, AND MOST OF THAT CONCENTRATED IN ONLY THREE COUNTIES IN SOUTHEASTERN WISCONSIN.

A NUMBER OF INDIVIDUALS HAVE BEEN INSTRUMENTAL IN THE SUCCESS OF OUR PROGRAMS. RECENTLY, DAVID MANNING, WISDOT MINORITY BUSINESS PROGRAMS DIRECTOR, WAS NAMED "WISCONSIN SMALL BUSINESS - MINORITY ADVOCATE OF THE YEAR" BY THE SMALL BUSINESS ADMINISTRATION AND A HOST OF WISCONSIN BUSINESS ASSOCIATIONS. HE ALSO RECEIVED THE "MINORITY BUSINESS ADVOCATE OF THE YEAR AWARD" FROM THE MILWAUKEE MINORITY CHAMBER OF COMMERCE, THE WISCONSIN MINORITY CONTRACTORS ASSOCIATION, AND MILWAUKEE'S MINORITY BUSINESS DEVELOPMENT CENTER. JOHN BOWLES, PRESIDENT OF BOWLES CONTRACTING--ONE OF THE FEW MINORITY FIRMS PREQUALIFIED TO BID AS A PRIME CONTRACTOR IN WISCONSIN, WAS THE 1985 RECIPIENT OF THE M.B.E. AWARD FROM THE U.S.

DEPARTMENT OF TRANSPORTATION. OUR CHIEF CONSTRUCTION ENGINEER AND OUR ADMINISTRATOR OF THE DIVISION OF HIGHWAYS AND TRANSPORTATION SERVICES HAVE ALL PLAYED IMPORTANT ROLES.

WE HAVE FACED A NUMBER OF PROBLEMS, TO BE SURE. AND WE RECOGNIZE THAT SEVERAL MORE SERIOUS ISSUES MUST BE CONFRONTED BEFORE THE PROGRAM CAN BE CALLED A SUCCESS. BUT I DO BELIEVE WE HAVE MOVED FROM PHASE ONE OF THE PROGRAM—WHERE OUR GREATEST CHALLENGE WAS TO GAIN ACCEPTANCE AND MOMENTUM FOR THE PROGRAM AND TO PROVE THAT IT COULD WORK—TO PHASE TWO—WHERE OUR CHALLENGE IS HOW TO ENSURE THAT THE PROGRAM CAN CONTINUE TO FUNCTION EFFECTIVELY OVER THE LONG TERM AND CAN BEGIN TO SERVE THE MORE BASIC GOALS OF MINORITY ENTERPRISE AND MINORITY EMPLOYMENT INSTEAD OF THE INITIAL FOCUS ON ACCOUNTING AND SIMPLE PERCENTAGE GOALS.

IN ALL THIS, THE WISCONSIN DEPARTMENT OF TRANSPORTATION HAS PLAYED AN ACTIVE ROLE BY EMPHASIZING REPEATEDLY THAT THE PROGRAM WILL BE IMPLEMENTED IN BOTH THE SPIRIT AND THE LETTER OF THE LAW. AND BY PROVIDING CONTRACTORS WITH THE OPPORTUNITIES TO WORK COOPERATIVELY WITH US AND WITH EACH OTHER WE HAVE BEEN ABLE TO ADDRESS THE LEGITIMATE CONCERNS THAT HAVE ARISEN. ONE OF THE MOST EFFECTIVE AND PRODUCTIVE MECHANISMS TO THIS END HAS BEEN OUR DBE TRANSPORTATION ADVISORY COMMITTEE (TRANS-AC). COMPOSED OF MINORITY AND NON-MINORITY CONTRACTORS, ALONG WITH WISDOT AND FHWA STAFF, THE TRANS-AC COMMITTEE HAS PRESENTED A REGULAR AND INFORMAL FORUM FOR THE EXCHANGE OF IDEAS AND THE RESOLUTION OF MANY ISSUES BEFORE THEY BECAME PROBLEMS.

ONE OF THE MOST DIFFICULT PROBLEMS WE HAVE FACED TO DATE, AND FROM DISCUSSION WITH OTHER TRANSPORTATION OFFICIALS I KNOW IT IS A WIDESPREAD

CONCERN, HAS BEEN THE PROBLEM OF NON-MINORITY "FRONTS" OR OTHER INELIGIBLE FIRMS TRYING TO TAKE UNDUE ADVANTAGE OF THE DBE PROGRAM. WE HAVE DRAWN SOME CRITICISM REGARDING OUR AGGRESSIVE CERTIFICATION POLICY, BUT IT HAS BEEN ESSENTIAL THAT WE SET THE TONE AT THE BEGINNING OF THE PROGRAM TO DEMONSTRATE THAT WE ARE NOT INTERESTED IN GOALS FOR THE SAKE OF GOALS.

IN JANUARY, 1984, WE IMPLEMENTED A REVISED ANNUAL CERTIFICATION PROGRAM WHICH WE FEEL HAS BEEN VERY EFFECTIVE IN WEEDING OUT INELIGIBLE FIRMS FROM THE PROGRAM. SINCE THEN, 102 FIRMS HAVE BEEN DENIED CERTIFICATION AS DBE'S. YET WE HAVE INCREASED OUR DBE AWARDS FROM 5% TO 11% DURING THAT PERIOD AND HAVE GONE FROM 148 DBE FIRMS IN 1984 TO 158 DBE FIRMS IN 1985 WHICH ARE QUALIFIED FOR THE PROGRAM.

THE FIRST FACET OF OUR PROGRAM THAT A POTENTIAL DBE SEES IS OUR CERTIFICATION PROCESS. THE PROCESS BEGINS WITH COMPLETION OF A DETAILED APPLICATION FORM (A COPY OF THE FORM HAS BEEN PROVIDED TO EACH OF YOU). THE COMPLETED FORM IS RETURNED TO ONE OF OUR EIGHT DISTRICT TRANSPORTATION OFFICES THROUGHOUT THE STATE. THE DISTRICT EEO/LABOR COMPLIANCE OFFICER REVIEWS THE APPLICATION, MAKES AN ON-SITE VISIT TO THE APPLICANT'S HEADQUARTERS, AND FORWARDS THE APPLICATION AND A REPORT OF THE DISTRICT OFFICE REVIEW TO THE CENTRAL OFFICE WITH A RECOMMENDATION TO APPROVE OR DENY THE APPLICATION. OUT-OF-STATE FIRMS APPLY DIRECTLY TO THE CENTRAL OFFICE, BUT THEY MUST FIRST BE CERTIFIED BY THEIR HOME STATE.

THE APPLICATION IS THEN REVIEWED BY A COMMITTEE IN THE CENTRAL OFFICE THAT IS CHAIRED BY THE MINORITY PROGRAMS DIRECTOR. IF APPROVED, THE APPLICANT IS SO NOTIFIED. IF NOT APPROVED, THE APPLICANT IS NOTIFIED OF OUR INTENT

TO DENY CERTIFICATION AND OFFERED AN OPPORTUNITY TO APPEAR AT AN INFORMAL HEARING TO DISCUSS AND CLARIFY THE INFORMATION THAT HAS BEEN PROVIDED. IF AFTER THE INFORMAL HEARING THE APPLICANT IS STILL THOUGHT TO BE INELIGIBLE, THE REQUEST IS DENIED AND THE APPLICANT IS NOTIFIED OF ADDITIONAL APPEAL PROCEDURES AND OTHER LEGAL OPTIONS.

IN THE CASE OF A PREVIOUSLY CERTIFIED FIRM THAT IS DECERTIFIED UNDER THIS PROCEDURE, THE FIRM IS ALLOWED TO FINISH ANY CONTRACTS IN FORCE AT THE TIME OF DECERTIFICATION. HOWEVER, IT IS NOT ALLOWED TO BID OR MAKE QUOTATION ON ANY ADDITIONAL WORK AS A DBE.

DESPITE OUR AGGRESSIVE CERTIFICATION AND REVIEW EFFORT, AND THE FACT THAT WE HAVE DECERTIFIED OR DENIED CERTIFICATION TO A SIGNIFICANT NUMBER OF FIRMS, WE HAVE NOT YET HAD ANY OF THESE DECISIONS CHALLENGED IN COURT OR WITHIN THE USDOT CHALLENGE STRUCTURE. WE FEEL THAT THIS DEMONSTRATES THE FAIRNESS OF OUR PROCEDURES AND THE FACT THAT TOUGH DECISIONS CAN BE MADE TO STICK IF THE PROCEDURE IS OPEN, BALANCED AND DOCUMENTED.

IN WISCONSIN, OVER NINETY PERCENT OF OUR MINORITY PARTICIPATION IS ATTAINED THROUGH SUBCONTRACTING WITH A PRIME CONTRACTOR. WE ATTEMPT TO ASSIGN REASONABLE GOALS ON INDIVIDUAL PROJECTS IN WHICH DBE'S CAN PARTICIPATE. MOST OF OUR MINORITY POPULATION IS LOCATED IN THE SOUTHEASTERN PART OF THE STATE—IN AREAS SUCH AS MILWAUKEE, RACINE, AND KENOSHA. IN AREAS OF HIGH DBE CONCENTRATION, WE NORMALLY ASSIGN GOALS OF 15-20%. WE HAVE ASSIGNED A 45% DBE GOAL ON A SELECTED PROJECT IN MILWAUKEE.

THE ASSIGNMENT OF GOALS TO INDIVIDUAL PROJECTS REQUIRES KNOWLEDGE OF THE CHARACTERISTICS OF THE WORK TO BE ACCOMPLISHED AND THE CAPABILITY OF THE DBE COMMUNITY TO WORK OF PARTICULAR TYPES OF PROJECTS, SUCH AS STEEL WORK, TRAFFIC CONTROL, CONCRETE AND BITUMINOUS PAVING. GOAL ASSIGNMENT BEGINS IN OUR DISTRICT OFFICES, WITH THE EEO/LABOR COMPLIANCE OFFICER WORKING WITH THE DESIGN ENGINEERS TO DETERMINE THE OPPORTUNITIES FOR DBE PARTICIPATION. THEIR RECOMMENDATIONS ARE THEN TRANSMITTED TO OUR CENTRAL OFFICE WHERE THEY ARE REVIEWED, AND ADJUSTED IF NECESSARY, BY THE CHIEF CONSTRUCTION ENGINEER AND FINALLY, BY THE MINORITY PROGRAMS DIRECTOR. IT HAS BEEN OUR EXPERIENCE THAT THE ASSIGNED GOALS ARE USUALLY EXCEEDED IN ACTUAL CONTRACT COMPLIANCE BY AN AVERAGE OF 5%.

THESE PROCEDURES HAVE ENABLED US TO PROVIDE $9.8 MILLION IN CONTRACTING OPPORTUNITIES TO DBE'S IN FEDERAL FISCAL YEAR 1984 AND $13.6 MILLION IN FEDERAL FISCAL YEAR 1985. THIS AMOUNTS TO 7.5% AND 11.0% MINORITY PARTICIPATION IN THE TWO RESPECTIVE YEARS. IT IS IMPORTANT TO NOTE THAT THESE FIGURES REPRESENT A NET VALUE OF DBE PARTICIPATION AFTER OUR CERTIFICATION PROCESS ELIMINATED A NUMBER OF INELIGIBLE FIRMS FROM THE PROGRAM.

AS A RESULT OF THIS AGGRESSIVE CERTIFICATION POLICY, WE HAVE CLEARLY MADE IT MORE DIFFICULT TO MEET OUR DBE TARGETS. AS A CONSEQUENCE, WISDOT REQUESTED AND RECEIVED A REDUCTION IN ITS DBE GOAL FOR FEDERAL FISCAL YEAR 1985, TO 9% DBE PARTICIPATION.

ADDITIONAL FACTORS WHICH CONTRIBUTED TO OUR DECISION TO REQUEST A WAIVER IN FEDERAL FISCAL YEAR 1985 ALSO INCLUDED OUR NEW POLICY OF PERMITTING GOOD

FAITH EFFORT EXCEPTIONS FOR PRIME CONTRACTORS AND A GROWING CONCERN ABOUT PROBLEMS OF NON-PERFORMANCE BY MINORITY SUBCONTRACTORS BOTH OF WHICH TEND TO REDUCE THE ACTUAL DBE PARTICIPATION IN FEDERAL CONTRACTS, REGARDLESS OF ANY OTHER FACTORS.

Good Faith Effort Determination - The intent of the Surface Transportation Act of 1982 was to increase the participation of legitimate DBE's in the federal aid highway program. But as we work to strictly enforce eligibility standards, we must also be willing to recognize the good faith efforts made by contractors to honestly involve DBE participants as subcontractors to achieve the assigned project goals. Our good faith effort evaluations are an important focal point in assuring fair treatment of prime contractors in a manner that does not encourage cheating.

To deny real and honest requests when good faith efforts are demonstrated would invite the contracting community to cheat to attain the goals on projects. WISDOT prefers real and substantial participation by the DBE community as opposed to artificial and contrived involvement. However, WISDOT does require the contractor to prove that good faith efforts were actually made.

Non-Performance by DBE Firms - The element of non-performance by DBE's must be considered when doing a realistic analysis of the dollars assigned to go to the disadvantaged business community. Business failures and the inability of businesses to complete projects previously committed to are facts of business life and not just unique to the DBE program.

IN OUR EFFORT TO MINIMIZE THIS PROBLEM:

- WE TRY TO REPLACE A NON-PERFORMING DBE FIRM ON A CONTRACT WITH ONE THAT IS ABLE TO PERFORM.

- WE PROVIDE MANAGEMENT AND TECHNICAL ASSISTANCE TO DBE'S ON A PROJECT BY PROJECT BASIS AS WELL AS ON AN OVERALL BASIS.

- WE ENCOURAGE THE PRIME CONTRACTORS TO PROVIDE TECHNICAL AND MANAGEMENT ASSISTANCE TO THE DBE FIRMS WORKING AS THEIR SUBCONTRACTORS.

IN MAKING THE DECISION TO REQUEST A WAIVER FOR FEDERAL FISCAL YEAR 1985, WISDOT RECOGNIZED THE EXISTENCE OF THESE THREE FACTORS WHICH GREATLY AFFECTED THE DETERMINATION OF A REASONABLE GOAL:

- GOOD FAITH EXCEPTIONS TO THE DBE GOALS IN HIGHWAY CONTRACTS WERE INDEED GRANTED FOR THE FIRST TIME. THIS IS TAKEN AS AN INDICATION OF FULL UTILIZATION. IN ADDITION, IN THE COMPUTATION OF DBE CAPACITY A REDUCTION SHOULD BE MADE FOR THE UNFULFILLED DBE COMMITMENTS.

- THE DECERTIFICATIONS OF FIRMS WITH EXISTING CONTRACTS, DUE TO IMPROVED SURVEILLANCE WITHIN OUR DBE PROGRAM, MEANS THAT A PORTION OF THE PREVIOUSLY ALLOCATED DBE PARTICIPATION SHOULD NOT BE COUNTED TOWARDS THE FEDERAL FISCAL YEAR 1985 GOALS, NOR WAS IT AVAILABLE IN GOAL SETTING FOR NEXT YEAR.

- THE NECESSITY IN SOME CASES TO REPLACE A DBE FIRM WITH A MAJORITY FIRM TO FINISH A PROJECT WHEN THE DBE FIRM FAILS TO COMPLETE THE WORK. THIS REPLACEMENT REPRESENTS A REDUCTION IN PROGRAMMED DBE PARTICIPATION.

IT WAS OUR CONCLUSION THAT SETTING A REDUCED GOAL WHEN CIRCUMSTANCES WARRANT WOULD NOT WEAKEN THE EFFORT TO ATTAIN DBE GOALS. RATHER, IT WOULD STRENGTHEN THE PROGRAM BY ESTABLISHING CREDIBILITY: THAT WHEN GOALS ARE SET, THEY ARE NOT ARBITRARY; THAT NO COMPROMISES IN PROGRAM INTEGRITY WILL BE TOLERATED SIMPLY TO MEET NUMERICAL GOALS; AND THAT WHEN CIRCUMSTANCES MAKE IT IMPOSSIBLE TO MEET THE GOALS, REASONABLE EXCEPTIONS SHOULD BE ALLOWED RATHER THAN INSISTING ON UNREALISTIC TARGETS AND ENCOURAGING ABUSES. WISDOT WAS ABLE TO ACHIEVE 11% PARTICIPATION IN FEDERAL FISCAL YEAR 1985; BUT BECAUSE WE SET REASONABLE GOALS INITIALLY, WE ARE MORE CONFIDENT THAT THIS RESULT WAS ACHIEVED LEGITIMATELY.

YET DESPITE OUR BEST EFFORTS TO FIND AND DEVELOP MINORITY CONTRACTORS FOR THE PROGRAM, WE MUST RECOGNIZE THAT THERE ARE REAL CONSTRAINTS ON OUR ABILITY TO MEET GOALS LEGITIMATELY.

OUR EXPERIENCE WITH "GOOD FAITH EFFORT" EXCEPTIONS AND NON-PERFORMANCE SITUATIONS SHOWS US THAT THE POOL OF ELIGIBLE DBE CONTRACTORS IS SPREAD VERY THINLY AT TIMES AND THAT IT IS NEITHER POSSIBLE NOR WISE TO INSIST THAT THESE FIRMS TAKE ON WORK THEY CANNOT REASONABLY HANDLE.

THIS OCCURS PARTLY BECAUSE OF THE LIMITS OF GROWTH OF NEW AND EXISTING MINORITY FIRMS, BUT ALSO BECAUSE OF THE INCREASED AMOUNT OF WORK AVAILABLE

TO THESE FIRMS. THE STATE OF WISCONSIN HAS A MINORITY PREFERENCE PROGRAM WHICH MAKES IT POSSIBLE FOR MINORITY FIRMS TO OBTAIN MORE STATE CONTRACTS OTHER THAN HIGHWAY PROJECTS AND IN SOME CASES MAKES THESE MORE ATTRACTIVE. FURTHER, THE MILWAUKEE METROPOLITAN SEWERAGE DISTRICT IS IN THE MIDST OF A VERY LARGE SEWER RECONSTRUCTION PROGRAM WHICH IS ALSO SUBJECT TO FEDERAL MBE GOALS. OTHER LOCAL GOVERNMENTAL BODIES IN WISCONSIN ALSO ARE AGGRESSIVELY SEEKING MINORITY PARTICIPATION IN THEIR ORAL CONSTRUCTION PROGRAMS. IT IS DIFFICULT TO ENCOURAGE MBE FIRMS TO SEEK ADDITIONAL HIGHWAY WORK OUTSIDE THEIR HOME CITIES WHEN THERE IS SUDDENLY A GREAT DEAL MORE LOCAL OR NON-HIGHWAY WORK AVAILABLE TO THEM.

OVER TIME, ADDITIONAL CAPACITY CAN AND WILL BE DEVELOPED BY MINORITY FIRMS. BUT IT IS UNWISE TO INSIST ON TARGETS WHICH DO NOT RECOGNIZE WHAT IS REALISTICALLY AND PRUDENTLY POSSIBLE. WIDESPREAD ABUSES OR UNWISE EXPANSIONS LEADING TO NON-PERFORMANCE OR BANKRUPTCIES, RESULTING FROM PRESSURE TO MEET UNREALISTIC GOALS, WILL CAUSE MORE LONG TERM HARM TO THE DBE PROGRAM THAN ANY OTHER SINGLE FACTOR.

BUT SETTING REALISTIC GOALS DOES NOT MEAN RELAXING EFFORTS TO ENCOURAGE AND PROMOTE DBE PARTICIPATION. INSTEAD, IT MEANS ESTABLISHING GOALS WHICH CAN BE MET THROUGH CONCERTED EFFORTS, AND DOING THE BEST TO BRING NEW FIRMS INTO THE PROGRAM AND TO ASSIST EXISTING DBE CONTRACTORS IN SUCCEEDING OVER THE LONG TERM.

WE HAVE ACCOMPLISHED THIS STEADY INCREASE IN CERTIFICATIONS, DESPITE A LARGE NUMBER OF DECERTIFICATIONS, THROUGH INCREASED OUTREACH EFFORTS SUCH AS CONFERENCES, WORKSHOPS AND PRE-BID MEETINGS THROUGHOUT THE STATE. OTHER

MAJOR EFFORTS WE HAVE UNDERTAKEN WHICH HAVE CONTRIBUTED SIGNIFICANTLY TO OUR PROGRESS HAVE INCLUDED:

ESTABLISHING A MENTOR-PROTEGE PROGRAM - THE WISCONSIN DEPARTMENT OF TRANSPORTATION IS COMMITTED TO STRENGTHENING ITS PROGRAM OF ENCOURAGING ADDITIONAL BUSINESSES, OWNED AND CONTROLLED BY DISADVANTAGED PERSONS, TO PARTICIPATE IN TRANSPORTATION RELATED CONTRACTS. TO ASSIST IN THIS EFFORT WISDOT HAS ESTABLISHED THE "MENTOR-PROTEGE" PROGRAM, UNDER WHICH AN EXPERIENCED FIRM ASSISTS AND COUNSELS A FLEDGLING DBE FIRM UNTIL IT IS ABLE TO COMPETE BY ITSELF, OR LIMITED BY A DESIGNATED PERIOD OF TIME. THE MENTOR FIRM WILL PROVIDE GUIDANCE, ADVICE AND ASSISTANCE, UNDER A WRITTEN AGREEMENT WHICH SPECIFIES THE ASSISTANCE AND PROVIDES LEGAL SAFEGUARDS FOR BOTH PARTIES. THIS CAN INCLUDE FINANCIAL, TECHNICAL, MANAGERIAL, EQUIPMENT AND PERSONNEL ASSISTANCE.

THE MENTOR-PROTEGE PROGRAM AVOIDS HARM TO EXISTING DBE FIRMS, BECAUSE IT TARGETS NEW DEVELOPMENT IN AREAS WHERE DBE'S ARE NOT CURRENTLY INVOLVED. THIS ALSO HELPS SHIFT THE BURDEN OF MEETING THE CONTRACT GOAL EXCLUSIVELY FROM HIGH DBE CONCENTRATION AREAS, (SUCH AS LANDSCAPING, TRUCKING, AND TRAFFIC CONTROL), AT THE EXPENSE OF THE NON-MINORITY FIRMS IN THESE LABOR INTENSIVE AREAS. THIS SHOULD ALSO RESULT IN IMPROVED CONTRACTING AND SUBCONTRACTING OPPORTUNITIES FOR THE EXISTING NON-MINORITY SPECIALITY FIRMS. THE SEVERE NEGATIVE IMPACT OF THE DBE PROGRAM ON NON-MINORITY SPECIALITY SUBCONTRACTORS IS WIDELY RECOGNIZED AS A VERY UNFORTUNATE, AND UNINTENDED, BY-PRODUCT OF THIS PROGRAM.

Encouraging Joint Ventures - To further assist in offsetting the adverse burden that the program has on non-minority speciality contractors, WISDOT encourages cooperation and joint effort between the DBE subcontractors and the non-minority speciality subcontractors. Since many of the DBE firms are new to these areas, the involvement of the non-minority speciality contractor with them in legitimate joint ventures can help to strengthen their ability and increase their knowledge and expertise. We continue to encourage and support the formation of joint ventures and subcontract arrangements as a means of achieving the State's DBE goal. WISDOT does not directly participate in the formation of joint ventures. However, the Minority Program Director facilitates this endeavor by maintaining an updated DBE/WBE Directory for the referral of firms to non-minority contractors for subcontract and joint venture arrangements, and by providing sample joint venture agreements.

Providing Support Services to DBE Firms - To further assist the formation and growth of DBE firms, WISDOT has provided management and technical assistance programs to DBE firms who want to participate on WISDOT federally assisted contracts. The management and technical assistance program is funded through the FHWA Support Services Program.

This program is specifically targeted toward assistance in business planning. The assistance is provided in accounting, finance, marketing, and contract estimates, loan packaging and bond application, as well as joint venture formation. This program directly assists, advises, and provides workshops and seminars in the attempt to set a course toward self-sufficiency.

THE PROGRAM PROVIDES AN ARRAY OF SERVICES INCLUDING: OUTREACH AND IDENTIFICATION OF ADDITIONAL MINORITY FIRMS; EVALUATION OF THE CONTRACTOR'S PRESENT FINANCIAL, MANAGERIAL, AND MANPOWER CAPABILITIES; REFINEMENT OF CONTRACT ESTIMATING SKILLS; PROVISION OF INFORMATION AND SERVICES RELATIVE TO THE AVAILABILITY OF CONTRACTORS; AND AID WITH ONGOING PROJECT ACCOUNTING AND ADMINISTRATIVE PRACTICES.

THE STRATEGY OF THIS PROGRAM IS TO BRING TOGETHER EXISTING RESOURCES OF THE PUBLIC AND PRIVATE SECTORS IN A COORDINATED EFFORT TO HELP ELIMINATE PROBLEMS AND LOWER BARRIERS WHICH PRESENTLY HINDER PARTICIPATION. THE MOST ESSENTIAL PART OF THIS PROGRAM IS THE ASSESSMENT OF THE NEEDS OF THE DBE AND SPECIFIC REFERRALS TO MEET THOSE NEEDS.

UNDERTAKING CONSULTANT DESIGN CONTRACT INITIATIVES - AS PART OF THE EFFORT TO INCREASE DBE PARTICIPATION IN 1984, WISDOT REQUIRED ALL CONSULTANT DESIGN CONTRACTS TO HAVE A MANDATORY MINIMUM 10% DBE PARTICIPATION. THE ACTUAL DBE PARTICIPATION IN THIS CATEGORY WAS ALMOST 30% FOR FEDERAL FISCAL YEAR 1984.

BREAKING UP LARGE CONTRACTS INTO SMALLER ONES - WHENEVER POSSIBLE, WISDOT FOR YEARS HAS DIVIDED ITS PROJECTS INTO SMALL CONTRACTS THAT PROVIDE SMALL FIRMS, INCLUDING DBE'S, WITH AN OPPORTUNITY TO COMPETE. ANNUALLY, APPROXIMATELY 25% OF OUR CONTRACTS ARE FOR $100,000 OR LESS. WISDOT ALSO ENCOURAGES THE NON-MINORITY PRIME CONTRACTOR TO SPLIT SUBCONTRACTS INTO SMALLER SEGMENTS THAT DBE FIRMS CAN PERFORM MORE READILY.

Enacting Minority Business Preference Law - The State of Wisconsin has recently adopted a 5% Preference Law which give a 5% bid advantage to any certified minority firm bidding as a prime contractor. The law states that on state funded projects and purchases, the state may accept the bid of a minority firm if that firm's bid is within 5% of the lowest bid.

Assigning DBE Goals to State Funded Projects - WISDOT assigns DBE goals to state funded highway projects, as well as those federally, in areas with high concentrations of DBE's.

These last two items are examples of the State of Wisconsin reinforcing the requirements of the federal program with its own funds. While state funded activities are not counted toward the DBE goals, we believe that they should be recognized and encouraged by the federal goverment as evidence of a state's commitment to the intent of the law.

In addition, WISDOT is aware of many other barriers which DBE firms face in obtaining contracts and subcontracts with the state. Three of the problem areas are related to financial assistance, bonding and insurance assistance, and management and technical assistance. To address the financial assistance problems, WISDOT has held a statewide DBE seminar addressing the issues of DBE financing and working capital resources. We maintain a close relationship with the U.S. Small Business Administration as a potential source for DBE capital requirements. In addition, we are considering a proposal to provide more direct assistance to minority firms. To prevent cash flow problems, we require prompt payment to minority subcontractors.

WISDOT DOES NOT REQUIRE SUBCONTRACTORS TO HAVE SEPARATE BONDING. THE PRIME CONTRACTOR IS RESPONSIBLE FOR THE TOTAL BONDING ON WISDOT PROJECTS. THIS REMOVES A MAJOR FINANCIAL OBSTACLE TO DBE FIRMS DOING BUSINESS ON WISDOT PROJECTS, WHILE PROTECTING THE PUBLIC INTEREST.

OUR TECHNICAL ASSISTANCE AND SUPPORT SERVICES PROGRAMS HAVE BEGUN TO HAVE AN IMPACT IN INCREASING THE MANAGERIAL AND TECHNICAL SKILLS OF MINORITY FIRMS AND HELPING THEM TO PARTICIPATE ON AN EQUAL BASIS IN THE HIGHWAY CONTRACTING INDUSTRY.

AS I INDICATED PREVIOUSLY, THE ACCOMPLISHMENTS THAT WE HAVE MADE TO DATE HAVE NOT COME EASILY. NOR IS OUR TASK FINISHED IN THIS AREA. WE ARE STILL PLAGUED WITH A NUMBER OF FORMIDABLE PROBLEMS:

1) WE MUST FIND EVEN MORE WAYS TO DEVELOP MINORITY FIRMS AS PRIME CONTRACTORS, CAPABLE OF BIDDING PROJECTS AND COMPETING WITH THE OTHER PRIME CONTRACTORS ON AN EQUAL FOOTING.

2) WE NEED TO FIND WAYS TO MORE DIRECTLY PROMOTE AN INCREASE IN MINORITY EMPLOYEES. THE MINORITY LEGISLATORS IN MY STATE ARE FRUSTRATED AND PUZZLED WHEN THEY PASS A HIGHWAY PROJECT WITH A SIGNIFICANT LEVEL OF MINORITY PARTICIPATION IN THE CONTRACT, BUT FIND MINORITIES TO BE CONSPICUOUSLY ABSENT ON-SITE.

3) WE MUST CONCENTRATE MORE ON PROVIDING TECHNICAL AND MANAGERIAL ASSISTANCE TO NEW AND EXISTING MINORITY FIRMS. THIS IS ESSENTIAL TO THE LONG TERM GROWTH AND DEVELOPMENT OF A VIABLE AND CAPABLE

POOL OF MINORITY CONTRACTORS. WE HAVE EXPENDED CONSIDERABLE EFFORT DURING THE PAST TWO YEARS MAKING SURE THAT ONLY LEGITIMATE FIRMS PARTICIPATE IN THE PROGRAM. NOW THE CHALLENGE IS TO MAKE CERTAIN THAT THOSE FIRMS HAVE ACCESS TO THE TOOLS THEY NEED TO SURVIVE AND FLOURISH.

4) WE NEED TO FIND WAYS TO PROVIDE MUCH NEEDED WORKING CAPITAL TO DBE FIRMS. THIS IS A PROBLEM FOR MOST NEW AND INEXPERIENCED FIRMS, BUT IT IS DOUBLY TROUBLESOME FOR MINORITY BUSINESSMEN WHO USUALLY DO NOT HAVE THE PERSONAL ASSETS TO SECURE TRADITIONAL FINANCING.

5) FINALLY, WE MUST CONTINUE TO MITIGATE THE UNINTENDED HARM THAT THE PROGRAM BRINGS TO EXISTING FIRMS IN THE LOW-CAPITAL-INTENSIVE SEGMENTS OF THE INDUSTRY. BECAUSE AREAS SUCH AS LANDSCAPING, TRAFFIC CONTROL, AND TRUCKING ARE EASIER TO ENTER THAN OTHERS, MANY NEW DBE'S ARE CONCENTRATED THERE.

THE AMERICAN ASSOCIATION OF STATE HIGHWAY AND TRANSPORTATION OFFICIALS (AASHTO) HAS INITIATED A STUDY TO EXAMINE THE PROBLEM AREAS AND TO RECOMMEND STEPS STATES CAN TAKE TO RESOLVE THESE DIFFICULT ISSUES. AS A MEMBER OF THE TASK FORCE APPOINTED TO MAKE SUCH RECOMMENDATIONS AND AS A MEMBER OF THE AASHTO-AGC-ARTBA JOINT COMMITTEE, I EXPECT TO CONTINUE TO ATTEMPT TO INFLUENCE THIS PROGRAM TOWARD A LEGITIMATE END, IN SUPPORT OF BOTH CONGRESSIONAL INTENT AND THE INTEGRITY OF THE HIGHWAY CONSTRUCTION INDUSTRY. WE, IN WISCONSIN, WILL ASSIST IN THIS WORK AND WE URGE THE SUBCOMMITTEE TO FOLLOW THIS EFFORT CLOSELY.

IN CLOSING, LET ME SAY THAT I APPRECIATE THE OPPORTUNITY TO SPEAK WITH YOU TODAY. I HOPE THAT MY REMARKS WILL BE USEFUL TO THE SUBCOMMITTEE IN ITS DELIBERATIONS. THANK YOU FOR YOUR ATTENTION.

Mr. MITCHELL. Thank you very much. Congressman Hayes will lead with questions, and then I have one or two.

Mr. HAYES. Mr. Chairman, Mr. Jackson's testimony and his prepared statement certainly attests to the fact that the program in Wisconsin is working quite well, although he acknowledges that it is not without problems. It appears from the testimony that they are trying to grapple with the problems. I do have one question and maybe some subsequent questions related to that may follow.

What would you consider as the bottom line requirement that we could just put into capsule form necessary for one to become a prime contractor, what are the minimum needs? I do not want the maximum but the minimum.

Mr. JACKSON. Well, in Wisconsin, legally one can be prequalified by essentially a self-certification that if they have a net worth of $30,000, they can bid on a $100,000 prime contract. Typically that may be a painting contract, or a guardrail contract, a traffic control contract. Unless it is a stand-alone prime contract, they are likely to be doing it as a sub, but they can become primes with that simple self-certification.

Whether that is enough or not is a judgment question, but that is the legal requirement in Wisconsin.

Mr. HAYES. Has the Wisconsin Department of Transportation put together a proposal to provide financial assistance in DBE's own transportation related projects?

Mr. JACKSON. We have worked with our TRANS-AC committee to try to establish the mechanisms by which the primes help their subs. We are internally now working on a potential for providing working capital now primarily for the new DBE. That really probably still will be the responsibility of the prime contractor relationship.

But during the time of advancement from subcontractor to prime, we know that we are going to have to have a financial mechanism helping it. We have not yet resolved how to do that. There are clearly some legal restrictions on how the State spends its money as well as with Federal money. But we do recognize it as a problem, and are trying to propose some way to solve that capital problem. Bonding, I believe, is not one of our major problems now.

Mr. HAYES. You mentioned something near the end of your testimony which I wondered about as a recent traveler from Milwaukee I think to Madison, WI to visit a person who I knew. And there were several highway projects going on on the main highway that we were traveling on. And you are right, the participation of minorities in the actual performance of the jobs being performed at that time was not very visible, you know.

And I think that this is one area that you are correct in saying that we have got to begin to look into. I guess that as you get out of Milwaukee proper, you find this to be true throughout the State, is that not right?

Mr. JACKSON. We do have a large native American DBE activity, so we do have people outside of the city of Milwaukee who are involved in it. But that is essentially correct, that the concentration is in southeastern Wisconsin, Hispanics and blacks in that particular area primarily.

But in looking at a project as you drive by, the orange and white barrels are there as part of traffic control, but there are not any visible minorities standing there next to them. Nonetheless that is an essential DBE part of the contract. The pavement marking, the guardrail, the kind of labor-intensive activity as opposed to equipment intensive is the part that is seen least on the highway.

So as DBE's evolve from subcontract to prime contract and from labor intensive to equipment intensive, that is essentially a mechanism by which you are going to see more minority participants actually out on the job.

Mr. HAYES. Being from the neighboring State of Illinois, you know, it is part of the Midwest which is tragically affected by high unemployment. I was wondering how you were able to put a goal of 45 percent on a demonstration project in Milwaukee proper.

How did that happen?

Mr. JACKSON. Well, with some trepidation, but I am happy to report that we got 53 percent back from the contract. It was again I suppose a recognition that some projects lend themselves to available capacity. And if you know what that is, then you can match it up. Obviously, it was very popular in the minority community, and frankly we used it to show that you could meet higher goals than just 10 percent.

The prime contractor was not a minority, but 53 percent of the work was done by minority contractors.

Mr. HAYES. My concluding question is one that I have asked everybody.

Are you for or against the reauthorization of the program?

Mr. JACKSON. I think that the State of Wisconsin could proceed without it. It may, however, including for the State of Wisconsin, have been a useful discipline that perhaps is still required.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. MITCHELL. Were you ever associated with the State department with that diplomatic response?

Mr. JACKSON. No, sir; but I am a Republican working for a Democratic Governor.

Mr. MITCHELL. Well then, indeed you are part of the State department. First of all, please convey my congratulations to John Bowles, who is a very fine man, and he is now a prime contractor, is that correct?

Mr. JACKSON. Yes.

Mr. MITCHELL. That is excellent. Let me tell you. I, too, share your concern over this problem of the landscaping area, the low capital intensive parts. It has come up many times. And I think a part of the problem with the specialty companies is that many States do not look for other options for the minorities, but apparently you are looking for other options.

Are you making a study on that?

Mr. JACKSON. We have not got much to study until we have had some experience in the mentor-protege program. But when we are in the field with it for a few years, I think that we will know whether or not it is a successful way to essentially bootstrap up from being subs to primes which is what we are hoping to do.

Mr. MITCHELL. And just one last question. We have run across a situation in which a prime has a minority or DBE subcontractor.

In some instances, the subs are not paid for their portion of the work in a timely fashion. And as a result, even though they perform the work, they may well be in jeopardy in terms of the ongoingness of their business. Is there a sanction in your State that would apply to that kind of situation?

Mr. JACKSON. We have not had difficulty. It has been mentioned as a potential problem a few times. But we do have a requirement that all subs are paid within 10 days or 2 weeks by the prime. And our compliance people are on the job. And we pay our primes within 14 days. So there should be no difficulty with the cash flowing down. We have not had a problem yet.

Mr. MITCHELL. Thank you. Certainly, again a positive attitude. And I am most appreciative of what you are attempting to do with this program, particularly your long-range goals. As the witness from Pennsylvania indicated, he wanted to see this program ended. I want to see it ended when it can be ended. And to the extent and to the degree that we look in terms of long-range efforts, I think that will facilitate the day when we will not have to have laws to do this. So I really want to commend you on your long-range efforts that you are taking.

Thank you very much. Since you are a Republican, it may be interesting for you to know that we are going to take up the reconciliation this week in the House and probably impose further budget cuts. Thank you.

I appreciate our last panel waiting so patiently. State Senator Carolyn Brown Mosby, and Pennsylvania State representative, Mr. Gordon Linton. I know what it means for you to take time to come here. And I am really very, very appreciative of it. I did not identify your State. I should have said Indiana.

And with reference to Indiana, I will just mention the visit that was made to my office by a minority businessman maybe almost a year ago. He came in. I did not know him. He just said I want to thank you for what you have done. A black guy who joint ventured in building a bridge in the State. And he is now a certified bridge builder in your State. That is the kind of thing that can be accomplished.

Please proceed with your testimony.

TESTIMONY OF CAROLYN BROWN MOSBY, INDIANA STATE SENATOR

Ms. MOSBY. Thank you, Mr. Mitchell and Mr. Hayes. It is a pleasure to appear before your subcommittee, and to provide some backdrop information for Indiana. It was interesting to read in your opening statement that the highway department has misinterpreted the letter of invitation. I did not know that. I was not aware that they would not be here, and I do not know what the misinterpretation was.

I am Carolyn Brown Mosby, State senator from the third senate district in Indiana inclusive of communities in Gary and Lake Station, two widely diverse communities, I might add. Let me express my personal gratitude and the gratitude of fair minded people in the State of Indiana for the opportunity to provide information about the experience of Indiana business persons who are members

of racial minority groups, and their relationship with State government in Indiana.

Congressman Mitchell, you are not only renowned for your courage in challenging long established inequities and practices, policies, and laws of this our country, but you are also greatly revered and respected by millions of Americans of both minority and majority racial groups. The respect that you enjoy as a leader is evident by the support that you receive from members of this subcommittee, and your colleagues in the U.S. Congress. They are to be complimented as well on your joint successes which have made dramatic economic differences in communities across this land.

I serve by appointment of the Indiana Senate—and this is an addendum which is not in the written testimony—by appointment of the president pro tem, Robert Garton, and the senate Democratic leader, Frank O'Bannon, as a delegate to the transportation committee of the National Conference of State Legislators. Mr. Barnhart has appeared before our committee, the NCSL committee, strongly opposing the continuation of section 105(f). And I want to assure you that Mr. Linton and Assemblywoman Gwen Moore, who is vice chair of that committee, and Senator John Bass from Missouri, and Ms. Moore is from California, and I have strenuously argued with Mr. Barnhart in that setting, and that that committee resolved to support the continuation. And the NCSL at its business meeting in August embraced that resolution, and is on record as supporting the continuation of that section of the bill.

I will briefly attempt to state our case in addition to calling your attention to the appendices which I did submit earlier. The Indiana scene is really a different scene and setting, and especially for the Indiana legislative Black Caucus. Indiana is appropriately categorized as a conservative State in posture. Politically, the Indiana State government has been controlled by the Republican Party for the past several years. Except for State auditor, all elected State offices are currently held by Republicans. Both houses of the Indiana Legislature have Republican majorities.

You are probably aware of the fact that we are presently before the U.S. Supreme Court for some decision on map drawing in our State. In the 7 years that I have served in the legislature, 4 years in the house and 3 years in the senate, there have been no black Republican legislators, although at least in some instances, there are districts, Republican districts, where a black could be elected.

That means then that the Indiana legislative Black Caucus is entirely a Democratic caucus working in a Republican setting. So I wanted to point that out.

The black population in Indiana is centered in Indianapolis and in Gary basically. Indianapolis is the State capital, and Gary is 150 miles away and identifies with Mr. Hayes' city, Chicago, more that it does identify with the State of Indiana.

There is a substantial black population in South Bend, Evansville, and Fort Wayne. And those communities, too, are geographically far removed from the State capital. And so it is entirely accurate to say that the majority of blacks in Indiana have a handicap not only by race but by geography.

Blacks who reside in Lake County, IN, the county in which I live and which I represent, have the additional disadvantage of a basi-

cally unresponsive, except as window dressing, regional planning commission. The Northwestern Indiana Regional Planning Commission is the regional conduit for Federal dollars including transportation dollars.

Now I wanted to make that point, because I think that we may be overlooking conduit agencies that also handle transportation dollars, as well as highway departments and State governments.

In this setting then, the eight black State legislators, six in the house and two in the senate, acting as the Indiana legislative Black Caucus, under the wise leadership of our chairman, Representative Hurley Goodall of Muncie, shoulder the gigantic responsibility for efforts to make Indiana State government responsive and responsible in its relationship with black citizens. Our caucus continuously monitors all aspects of State government and its interaction with black Hoosiers.

Until 1983, Indiana had no State law to enhance participation of minority business persons in the millions of dollars of State purchases of goods and services. Enactment in 1983 of Public Law 34, which I authored, falls sadly short of being the strict 10-percent set-aside contained in the original language of that bill. Its passage, however, with all of its imperfections does indeed provide a vehicle for meaningful gain by Indiana's minority business community by way of the Governor's Commission on Minority Business Development which is created by Public Law 34.

Regrettably, the lackluster manner in which the commission staff has proceeded has had the effect of perpetuating statewide sluggishness of progress in the minority business community. The most notable accomplishments of the commission, to date, center around staff efforts to put in place rules to implement a small business set-aside law which passed in 1976, but which never had had rules promulgated for its implementation.

I would point out that a part of this problem is that the people who are employed to implement and enforce are accountable to their employer, their patronage situation, so I think that that renders them less effective than they might be if they were independent.

It should be pointed out that passage of Public Law 34 is attributable in part to the fallout from requirements of the then soon to be implemented Surface Transportation Assistance Act, in particular section 105(f).

During the months preceding the effective date for the Surface Transportation Assistance Act, Indiana was beginning a 2- to 3-year construction project of additional exits off the Indiana toll road in northern Indiana. At least four of the exits are located in the city of Gary with several others within 50 miles of Gary. The Indiana Highway Department and the toll road authority agreed to my request that the toli road construction contracts include 10 percent minority and geographic set-asides, although no Federal dollars were involved in the construction of the Indiana toll road projects.

Highway department officials cooperated with the request to work with minority contractors before construction began or bids were let. The construction of those exit ramps will be substantially completed by the end of 1985.

Unhappily, minority participation in the millions of dollars spent on construction of these exits was far less than the 10 percent which might have been attained.

Although the toll road experience and subsequent experiences with the Surface Transportation Assistance Act perpetuates varying opinions among minority contractors—and this again is an addendum thought that I had while on the plane enroute here today—as to whether or not it is better to set aside certain jobs small enough for bonding capabilities of small minority contractors as is done in Illinois, I understand, and as to why so few minority contractors, even with the intent and provisions of the Surface Transportation Assistance Act, have the opportunity to develop as bridge construction contractors. The contractor that you referred to had that opportunity as a result of the toll road experience, combined with the leveraging which Mayor Richard G. Hatcher was able to do in connection with my request at the State level. The contractors who have to do business with the city of Gary have to be at least somewhat concerned about what Mayor Hatcher thinks of them and their efforts to enhance minority business development.

The prequalification process remains a major disincentive and barrier to minority contractors from becoming prime contractors, as well as what appears to be the everlasting relegation of minority contractors to subcontractor status. There should be closer monitoring and more accountability of the conduit agencies, as I mentioned before.

Out of the experience of the toll road, however, came renewed and moderately successful efforts to create more legitimate joint ventures both between white companies and black companies, and between black companies with other black companies. Hopefully, in future years these and other joint ventures will be pacesetters and role models.

I sincerely believe that the toll road exercise was a useful forerunner of the Surface Transportation Assistance Act in Indiana, and that the experiences on the toll road projects enabled the highway department to have a better track record under the Surface Transportation Assistance Act than would have been the case without the toll road experience.

Shortly after the effective date for implementation of the act, and to the surprise of the Indiana legislative Black Caucus, and without even trying to meet the 10 percent mandated by the Surface Transportation Assistance Act, the Indiana director of highways appealed to the Federal Highway Administration for special permission to reduce from 10 percent to 5 percent Indiana's required minority participation under the Surface Transportation Assistance Act.

Representative Hurley Goodall and I immediately met with Gov. Robert Orr to request that he rescind that appeal, and instead that he set about trying to meet the 10 percent. After some deliberation, Governor Orr did rescind the request for appeal from the FHA, and the Indiana Highway Department went to work on approaches for compliance.

Please note the reports attached hereto from the highway department, listing its DBE status report through the month of September 1985.

It is true that, of all the Indiana State agencies, the Indiana Highway Department comes closest to abiding by either the Indiana public law requiring 5-percent goals or the Federal Surface Transportation Assistance Act requiring 10-percent set-asides. Indeed, most agencies in the Indiana State government are not complying with either the Federal or the State requirements relative to minority business participation. Perhaps other congressional chairs of committees and subcommittees may look into Indiana's failures in their arenas to meet requirements while spending the Federal dollars made possible by acts of the Congress.

And while the Indiana Highway Department has done better than other departments in the Indiana State government, there can be no celebration over the performance of the highway department because too many black contractors, and subcontractors, and vendors are still graphically describing the frustrations of their own attempts to win work with the highway department.

Moreover, a major complaint by black business persons is against the existing structure which relegates them still to the subcontractor, rather than the prime contractor role. Numerous complaints are registered by minority contractors and vendors about troublesome prequalification and annual recertification as DBE's as well as harassment from highway department inspectors.

Expensive preparation of reports and forms needs to be reduced. If this committee should decide to pursue any case study in Indiana, I would certainly urge that the case of Armstrong Steel Fabricators be looked at from the beginning of its experience with the highway department to the current day. Up to yesterday, that gentleman is experiencing some unbelievable problems as a result of highway department inspectors coming on one occasion and approving work, and a different inspector coming another day and disapproving the work; and then in some cases having the Indiana highway inspectors approve work that then Federal inspectors come and disapprove. I think that he could tell his story better than I could.

The State's failure to creatively use Federal funds dedicated to improving the experience of minority business is another source of complaint. The perception of most minority business persons is that these dollars are used to broaden political patronage, and that the traditional technical assistance uses are becoming humdrum.

In Indiana, like in some other locales, "training and technical assistance for minorities" is becoming a major industry for white businesses and educational components. Not enough effort is made to bring onboard experienced minorities to become the trainers and consultants for DBE's. Manipulations by the construction unions and building trades unions increasingly become barriers for minority contractors.

And I would add here that when I held a public forum a week ago in preparation for this appearance before your subcommittee, it was pointed out to me by construction engineers that the construction unions, as the work decreases because of economic hard times in our part of the country, minority construction workers

and construction engineers get fewer and fewer jobs. They get sent on fewer and fewer jobs. And so that becomes an even bigger problem for them.

Indiana has not been imaginative in creating special funds for use to address the special needs of minority contractors, funds to guarantee loans to cushion the long waits for pay by the State, for pay by prime contractors, and to keep supplies available from suppliers.

And I should add that some minority contractors have told me that the majority contractors have in some cases just arbitrarily held up their payments without any valid reason. Somehow, I guess there is resentment in having to deal with them in the first place.

The Indiana highway officials and other officials continue to blatantly ignore the extremely serious problem of the unavailability of bonding for minority businesses. The bonding industry in Indiana arrogantly thumbs its nose at the peculiar bonding problems faced by minority contractors. There is consensus among the minority business community that certainly more could and should be done by the State government highway department particularly in the specific use of Federal dollars given them to assist in developing minority contractor participation and the SBA, perhaps jointly with the highway department, to exercise some combined creativity to provide additional operational dollars for those minority contractors whose only barrier to participation is cash flow and inadequate capital.

I expect that if all of these problems were addressed tomorrow, without some specific management and organization decisions and implementations by minority businesses, not much would really change. And if so, not for very long.

Minority businesses must organize and employ full-time representatives to look after their interests and to keep abreast of increased opportunities. No longer should they expect their State legislators and U.S. Congressmen to double as lobbyists for the minority business community.

And that is something that I try to stress to them every time that we meet that they never even learn of many of the opportunities, because there is nobody looking after their interests full time. And as has been mentioned here today, the Associated General Contractors and other organizations that are determined to keep them out of the major activity certainly do have full-time and overadequate staffs to look after that end of their concerns. We certainly need to encourage our contractors to meet that with some full-time representation of their interests.

State government in Indiana and other States could use influence to urge the banking community to make available reasonable amounts of money for business expansion and new business opportunities in central cities and black communities. Something to the effect of what occurred in the student loan area eventually. There were some loan guarantee funds made available which encouraged local banks to make student loans.

Some variation of that kind of activity might be useful in terms of meeting some of the problems that the minority contractors have with funding.

Millions of dollars' worth of motor vehicles are purchased annually by the State of Indiana and by the regional planning commission. Only recently, and still in inadequate volume, have minority dealers begun to receive any substantial amounts of these purchases. Both of these agencies must be continuously monitored.

I also would like to point out that I think that there needs to be a closer examination of the reports that are submitted which are giving assurances to the Federal Government that minority goals are being met. Documentation of names and dollar amounts on each minority contract ought to be looked at very carefully because I am unable to find the people that make up the numbers that I read in terms of reporting for the State of Indiana, and for the regional planning commission in particular.

A number of opportunities exist for highway department officials to select minority professionals, architects, engineers, accountants, and lawyers, as you mentioned earlier. The track record has improved since 1983, but still leaves much to be desired. And again those people are being chosen from the immediate area of the State capital and not from around the State.

We, I think, computed that something like 96 percent of the business done with minorities is done with minority businesses immediately adjacent to the Indianapolis area, and only approximately 3 percent is going to minority businesses around the rest of the State. That is out of proportion to the representation of those businesses.

It should be noted again that State agencies including the highway department tend to select and contact contractors and vendors from the immediate geographic area. Minorities in other parts of the State are unfairly limited in their opportunities.

The passage and implementation of the Surface Transportation Assistance Act has made a phenomenal and positive difference on the flow of dollars and jobs into the minority business communities across the country. We must be sure that the act is reauthorized and adhered to nationwide.

Thank you for your present and past efforts.

[Attachments to testimony follow:]

STATE OF INDIANA

INDIANA DEPARTMENT OF HIGHWAYS
100 North Senate Avenue
Indianapolis, Indiana 46204-2249

INDIANAPOLIS
Room 1101, State Office Building
317-232-5533

October 9, 1985

TO: The Honorable Robert D. Orr
Governor

FROM: John P. Isenbarger
Director

SUBJECT: Monthly DBE Status Report

The monthly DBE status report is enclosed. The report reflects certification activity for the month of September 1985, the number of DBEs prequalified and the total dollar amount of DBE prequalification. In addition, the federal portion of contract awards and DBE participation is included.

This represents the last report for federal fiscal year 1985. The 10.2% DBE participation achieves the 10% goal set for 1985.

JPI:DWB:db
Enclosure
cc: File

An Equal Opportunity Employer

INDIANA DEPARTMENT OF HIGHWAYS

Statistical Review of Disadvantaged Business Enterprise Program

Report for Month Ending September 1985

This Month *

Total Amount of Contract Award	$ 8,673,226.00
Total Amount of DBE Commitment	$ 1,249,478.00
Percent of Award	14.4%

Year to Date October 1, 1984 to September 30, 1985 *

Total Amount of Contract Award	$248,126,991.00
Total Amount of DBE Commitment	$ 25,253,979.00
Percent of Award	10.2%

Status of DBE Capability

Number of DBE's Certified	119
Number of Prequalified DBE's	24
Number Requesting New Certification During Month	10
Total Amount of DBE Prequalification **	$ 72,186,000.00

* Federal-Aid Portion of Contracts Only

** This dollar figure represents the total amount of prequalification of all certified DBE's as of the end of the reporting month. Prequalification is determined by the Department based on financial conditions and experience of the firm. Contractors are prequalified for classification(s) of work and for the largest dollar amount of uncompleted work the contractor can have at one time. Prequalification is required of any firm bidding as a prime contractor or bidding in excess of $100,000.00 as a subcontractor. It is not related to Certification. Certification identifies firms which are eligible to participate as DBE's or WBE's.

STATE OF INDIANA

INDIANAPOLIS

INDIANA DEPARTMENT OF HIGHWAYS
100 North Senate Avenue
Indianapolis, Indiana 46204-2249

Room 1101, State Office Building
317-232-5533

October ~~September~~ 9, 1985

Mr. J. R. Skinner
Division Administrator
Federal Highway Administration
575 N. Pennsylvania Street
Room 254
Indianapolis, Indiana 46204

Dear Mr. Skinner:

Enclosed are the statistics pertaining to the IDOH DBE program for August 1985 and fiscal year to date.

This report represents the final statistics for federal fiscal year 1985. The 10% DBE goal was achieved with 10.2% DBE participation. The 3% WBE goal was not achieved. WBE participation for FY 1985 was 2.8%. There are several reasons for not achieving the 3% goal.

The number of WBEs certified is limited and most are not prime contractors. Two firms which were certified WBEs at the start of the fiscal year did not pursue certification this year when questions were asked about their recertification requests. These firms were prime contractors who made up a large percentage of the WBE participation in previous years as well as early this year. The lack of certified WBEs along with the relative small size of those certified makes it very difficult to achieve a 3% goal. Similar problems are anticipated during this fiscal year.

If you have any questions, feel free to contact Dennis W. Belter at 232-5361.

Sincerely,

Dennis W. Belter
Chief, Division of Management Services

For: John P. Isenbarger
Director

DWB:cr
Enclosure
cc: File

Indiana Department of Highways
DBE/WBE Program

September 1, 1985 - September 31, 1985

State and Federal Funds (Awards)	$11,919,888.00
Federal Funds Only (Awards)	$ 8,673,226.00
Federal Share of DBE Prime Contracts	$ 334,527.00
Federal Share of DBE Commitments	$ 914,951.00
Percent of DBE Commitments and Prime Contracts	14.4%
Federal Share of WBE Prime Contracts	$ -0-
Federal Share of WBE Commitments	$ 45,893.00
Percent of WBE Commitments and Prime Contracts	0.5%

Fiscal Year to Date

State and Federal Funds (Awards)	$371,331,756.00
Federal Funds Only (Awards)	$248,126,991.00
Federal Share of DBE Prime Contracts	$ 2,867,559.00
Federal Share of DBE Commitments	$ 22,386,420.00
Percent of DBE Commitments	10.2%
Federal Share of WBE Prime Contracts	$ 5,021,443.00
Federal Share of WBE Commitments	$ 1,874,679.00
Percent of WBE Commitments and Prime Contracts	2.8%

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Senate

Committees:
Metropolitan Affairs
Commerce & Consumer Affairs
Legislative Apportionment & Elections

MOSBY'S BILL CREATES COMMISSION ON MINORITY BUSINESS

I am pleased to report that Senate Bill 478 (Public Law 34) which I authored, has resulted in the creation of a fourteen member Commission on Minority Business Development to identify minority-operated businesses and assist them in obtaining contracts with state government. The law requires the State of Indiana to meet a minimum goal of 5% volume of State dollar business and a 10% value of federal dollar business with racial minorities.

Governor Robert Orr announced the appointment to the Commission Friday, July 8. The Commission's primary objective is to assure that all state agencies comply with state policy and federal law concerning the awarding of contracts to minority businesses.

This measure will stimulate growth and development of new minority businesses and expand existing businesses. I view it as the most significant "job-creating" legislation handed down by Indiana State government for the minority community. Significant stimulus to economic development in Indiana should result from implementation of Public Law 34. Highway Director Gene Hallock has already reported some progressive announcements in minority contracting for highway construction.

Members of the Governor's Commission on Minority Business Development include:

Clarence Stuart, Sentry Commercial & Industrial Supply Company, Fort Wayne

Willette Jenkins, Marblehead Carriers, Gary

Phil Saxton, International Marketing Systems, Indianapolis

William Mays, Mays Chemical Company, Inc., Indianapolis

Henry L. Hicks, Professional Powers, Jeffersonville

Joan Finch, Central High School, Evansville

Senator Joseph Corcoran, Seymour

Senator Carolyn Mosby, Gary

Representative William Soards, Indianapolis

Representative Hurley Goodall, Muncie

Gene Hallock, Director Indiana Department of Highways

Orval Lundy, Commissioner, Indiana Department of Administration

Lt. Governor John Mutz, Director Indiana Department of Commerce

Al Gage, Special Assistant to Governor Robert Orr, Chairman

Mr. MITCHELL. Thank you very much for an exceedingly comprehensive testimony. I think that we will let both of you present your statements first, then we will ask questions afterward. Again, thank you for being here.

TESTIMONY OF HON. GORDON J. LINTON, PENNSYLVANIA STATE REPRESENTATIVE

Mr. LINTON. It is my pleasure, Mr. Chairman, and members of the subcommittee.

Mr. Chairman and members of the subcommittee, it is a pleasure and honor to testify before you today on the Commonwealth of Pennsylvania's implementation of section 105(f) of the Surface Transportation Assistance Act of 1982.

Although I am only serving in my second term in the Pennsylvania House of Representatives, the issues related to the development of small, minority, and women businesses have become the major focus of my legislative agenda.

This focus has not been by accident but by design, because I had a crystal clear understanding of the relationship of small minority firms and the potential to reduce the minority unemployment and produce economic independence. It has also been most apparent to me that if there is a growth in the minority participation in the mainstream economy then all of America wins. But I must also caution the members of the committee that the opposite is also true. That a decline, regression, or the turning back of the clock of minority participation in economic development might result in irreparable damage to the growth of America. If America is to have a sustained economic recovery, minority businesses must be allowed to participate in the revitalization process.

Mr. Chairman, in response to the serious concerns regarding the utilization of minority- and women-owned businesses, the Pennsylvania House of Representatives passed House Resolutions 227 and 265 respectively on May 22 and September 18, 1984. As prime sponsor of the resolution, I was appointed by the Hon. K. Leroy Irvis, speaker of the house, to chair the seven-member committee.

The seven-member committee completed its report in November 1984. The report presented a bleak picture of the Commonwealth agencies utilization of minority and women owned businesses. In order to give the committee a flavor of our select committee findings, Mr. Chairman, I would like to quote from page 38, the summation data section of the report.

> Minority business concerns secured 2 percent of the Commonwealth's contract awards; women business enterprises secured 0.46 percent of the total contract amounts let.
>
> It is important to note that the efforts of the Department of Transportation to make significant progress in its DBE/WBE program was recognized by minority and women business owners throughout the Commonwealth as they testified before the committee. However, one must take note that the Department's program consists primarily of Federal dollars matched with State funds and received its impetus from section 105(f) of the Surface Transportation Assistance Act of 1982.
>
> Nonetheless, the commitment, increased contract awards to minority and women owned enterprises, and spirit to work toward heightened participation of MBE's and WBE's by the Department of Transportation is commended by the select committee.

The highlight of the report, Mr. Chairman, is that the DBE contracts awarded by Penndot [the Pennsylvania Department of

Transportation] for fiscal year 1983–84, the first full fiscal year of 105(f) of STAA of 1982, represented 43 percent of all contracts awarded to DBE's for 5 fiscal years by Commonwealth agencies. A single year represented 43 percent of all contracts awarded for 5 fiscal years of DBE's in Pennsylvania.

In an effort to successfully implement section 105(f) of STAA of 1982, the Pennsylvania Department of Transportation established a disadvantaged business advisory council. The disadvantaged business advisory council is composed of Penndot officials, DBE representatives, representatives of DBE trade associations, and elected officials.

The council attempts to resolve major procurement and contracting problems affecting DBE's, serves as an advocate for the DBE community; and attempts to provide a bridge between Penndot officials, the DBE community, and the prime contractor. The DBE advisory council has served as a meaningful tool in the department's effort to implement section 105(f) of STAA of 1982.

Mr. Chairman, the enactment of the Surface Transportation Assistance Act has appropriately addressed the problems related to the rebuilding of our Nation's highways, bridges, and mass transportation systems. However, section 105(f) is of particular interest to the minority business community. This section referred to nationally and affectionately, if I may add, as the "Mitchell amendment" intended to insure that minority participation in the economic benefits resulting from the rebuilding of our infrastructure continues.

However, it became apparent that a variety of age-old barriers persisted in diluting the overall impact of 105(f) in Pennsylvania. One of the major problems that continued to provide a barrier to economic participation by MBE's in Pennsylvania was access to working capital and bonding. I was successfully able to address that problem with passage of house bill 2297 which provided the first State Working Capital and Bonding Guarantee Program in Pennsylvania. Although this program is still in its infancy stage and the jury is still out on its effectiveness to address the problem, MBE's have begun to use it successfully to overcome another barrier. This initiative has now resulted in $2 million being made available for bonding guarantee and working capital for minority entrepreneurs who receive State contracts in Pennsylvania.

Mr. Chairman, it also became apparent that the effort to assure legitimate minority participation in section 105(f) was also being threatened by an increase in minority fronts. This fraudulent business activity continued to cloud the efforts of Penndot to implement 105(f), and had serious implications for the success of DBE programs nationwide.

I was successfully able to have legislation signed into law in 1984 as act 230 which created a new offense of deception relating to the certification of minority business enterprises or women's business enterprises. The new offense makes fraud or misrepresentation as minority or women business a third degree felony in the Commonwealth of Pennsylvania.

I must add also, Mr. Chairman, to my submitted remarks that it is my understanding that the attorney general in Pennsylvania is in the process right now of investigating a number of prime con-

tractors. And in fact today, there is a possibility that warrants will be issued in terms of their prosecution, and we expect to have some prosecution under the Fraud Act by the end of this year.

Mr. Chairman and members of this illustrious committee, my short history in the Pennsylvania House of Representatives has shown that changes in attitudes cannot be legislated. But unfortunately, built-in biases against change mean that businesses run by minorities and women are left out of the mainstream unless we provide programs established by law and regulation.

Although problems exist in section 105(f) just as other programs established by law, the benefits of the program far outweigh the problems.

Those persons who oppose 105(f) continue to assert that business opportunities are open to any businessmen or women willing to work hard. However, I must state that the status quo will remain unless we do our jobs not always because of discriminatory practices, but often because of inertia.

I would hope, Mr. Chairman, that this committee remains committed to the fundamental belief that minority business participation in the rebuilding of our Nation's infrastructure is an integral part of our economic recovery process, and that 105(f) represents a proven way to achieve that goal.

On behalf of the minority entrepreneurs in Pennsylvania, Mr. Chairman, I would like to thank you and the members of your committee for your years of hard work and dedicated work to our cause. Again thank you very much.

Mr. MITCHELL. Thank you very much, again for very excellent testimony.

Both of you in your respective States, have you had problems with organized labor and your DBE's; and if so, what kind of problems; and if so, how have you sought to resolve them?

Ms. MOSBY. Well, in Indiana, especially in my senate district, there appears to be a pass the buck kind of arrangement with the contractors and the unions. The contractors are saying we tell the unions that we want to meet these goals with workers on the job, that is for the prime contractor. And the subcontractors are having problems sometimes with union labor, because the less work they have the less able the black union members are to keep their dues paid up and to be eligible to be sent on jobs.

So there is sort of a chain effort or impact from the slumping economy that sort of feeds this problem. But we do indeed have problems with labor unions in Indiana espousing a philosophy that they do not practice. And it is a unique experience for us as black legislators, because typically we do support organized labor.

In at least a couple of instances that I can think of where there were construction related pieces of legislation before the general assembly and I voted against them, I was chastised by the building trades union as being against work. And I said no, I am for work if people in my district can get some of it, and if minorities can get some of it. I vote this way to get your attention, because the building trades union is one of the most discriminatory unions that I have encountered.

Mr. MITCHELL. Representative Linton.

Mr. LINTON. Mr. Chairman, I have not had a significant amount of problems with labor unions per se when it comes to the DBE contractors. One of the current concerns has been continued efforts to make sure with contract compliance, that they do in fact hire the minority laborers from the union halls when in fact they have contracts, day contracts, and other contracts involving construction and highway work in the State of Pennsylvania.

Mr. MITCHELL. I want to commend you for your local efforts. The Federal Government can get this law in action, but no law really works unless the local effort, the local elected officials, State elected officials really work at it. And I want to commend you both for the kind of work that you are doing.

You have just been in the legislature for how long?

Mr. LINTON. It is my second term.

Mr. MITCHELL. And three bills passed?

Mr. LINTON. Yes.

Mr. MITCHELL. Maybe you better teach us.

Mr. LINTON. Well, I had some good teachers. Congressman Gray is my Congressman, and I am his legislator.

Mr. MITCHELL. One last very blunt question. I do not know how else to put it. We have heard testimony from Wisconsin that the Associated General Contractors has entered into a cooperative working arrangement. In some other States, it is very clear that the Associated General Contractors have not entered into that kind of cooperative arrangement.

We know of the 2-year long propaganda war that has been waged by the Associated General Contractors attempting to persuade the Congress to eliminate any kind of preferential treatment.

What has been the experience with AGC in both of your respective States?

Ms. MOSBY. Well, from time to time, their behavior changes. There is an occasionally symbolic effort through the agency or some of its affiliates to put on a workshop or to make some outreach to minority contractors, and they have brought on board a minority contractor on their executive board in the State.

And on another occasion, I can remember that they helped me with a bill on bonding maybe 3 or 4 years ago when it was brought to their attention that they were involved in a lot of Federal projects where they were required by Federal law to have minority participation, and they were not abiding by that. And their excuse was that they could not find minority contractors who could get bonding.

And so they attempted to help me get a bonding bill passed. I mean at least on the surface they were helping. But that was a short-lived effort. And basically, there is a gap between what they say and what they do. They sometimes make statements that would make you think that they were having some change of heart.

I need to mention, too, that Representative Bill Crawford from Indianapolis has also worked very tirelessly on this whole thing of minority participation in State dollars. You complimented us on the State effort and local effort, but I want to tell you that we could not do anything if it were not for the leadership and example

that you provided at the Federal level, and this committee in particular.

And not only that, if we do not have this to lean on, we do not have any leverage to exercise at the State level.

Mr. MITCHELL. Thank you.

How are you getting along with that particular organized segment of the private sector?

Mr. LINTON. As you probably know, when you mentioned the name, I had to start smiling. Because most recently, I have had a number of dealings with AGC. They have been attempting to establish a preference for in-State contractors in Pennsylvania supposedly in response to preference being given to other in-State contractors in other States, trying to establish a reciprocal preference situation.

These gentlemen, representatives from AGC, came to speak with me, because I spoke to my chairman of the committee and said that I wanted to discuss their bill, which was in our committee at the time. Particularly in light of our past experience where we have attempted to try to get some goal-oriented programs for Pennsylvania and there had been opposition. I want to find out if preferences are bad for one segment of our population then why, in fact, are they good for others.

They have not, at this point, been able to explain that to my satisfaction, so that bill still sits. But it is clear that from the publication that I also received a copy of and the kind of propaganda that I have seen in some national articles that I have been following, that they are still alive and well in Pennsylvania. And we understand that they have not been very supportive in our efforts to try to provide legislative mandates to follow through on the State level what you have been able successfully to do on the Federal level.

I heard the gentleman from one of the States talk about some of the trade fairs and some of the programs that they have in their States. I see some of that going on in Pennsylvania. From time to time again, I question, though, their real commitment to that, whether they are trying to do some window dressing or whether they are really committed to trying to assist the minority entrepreneurs in the State.

Mr. MITCHELL. Thank you.

Congressman Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Both members of the State legislatures have given us, as you have said, comprehensive testimony. I just wanted to say that I know you recognize the parameters which this committee has jurisdictionally been assigned to and its limitations. We cannot by any stretch of the imagination apply the kind of necessary remedies to all the problems that you have raised.

If I had to draw a parable, I realize that your district is somewhat like my district in Illinois, unemployment is expanding and growing probably, with the exodus of the steel industry in northern Indiana. It has created a critical situation. So the most we can hope to do with this highway construction program—although I think it is necessary, we have got to fight for what we are entitled to in this whole area—is almost tantamount to applying a Band-

Aid to what amounts to a gunshot wound, so to speak, in trying to heal it.

I just read, for example, the other day, some 12,000, I think, people in Gary and that vicinity because of a lack of funds in the State, are without public aid, public assistance. And that is all they had to depend on. Most of whom are black and also other minorities.

So I just raise that to indicate that I understand the magnitude of the problem.

I also understand what has happened throughout the years, too. I can remember in Indianapolis when the minorities were about to get into numerical position where they could control that State's capital, and they immediately incorporated some of the suburban areas to avoid that catastrophic situation and prevent that to happen in a neighboring State.

I just want one question of you. Can you explain to me how Federal dollars are used to broaden political patronage?

Ms. MOSBY. Well, I forget the terminology for the money that comes to States with the Federal highway dollars. There is some money that comes to States to assist with the development of minority businesses. It has a name, but I cannot think of it.

I would suggest that probably most of that money is somehow in a patronage use. The Indiana highway contractor, minority contractor center is headed by the wife of a Republican who has a Washington appointment now. He recently, well, I guess in the last 2 years came to Washington. They get all of the money that goes outside the State highway department.

And then even on the commission that was created by the public law which I authored, the accountability of that staff director is to the executive branch of government. And I think that limits the amount of courage that can be demonstrated sometimes. That may be true in nonpatronage situations, too. It is just an employer/employee relationship.

But in our State the sensitivity of the State government has been more parallel to the sensitivity of the Federal executive branch than to anything else. And I say that because I think that is the best way to explain.

You referred to the poor relief dollars. It is not that the State is out of money. The State has millions of dollars of surplus funds. It is that our area of the State is out of money for poor relief and the State will not come to its rescue. Some unemployment caused by the steel industry and then their behavior in terms of contracting out work, which has caused some other unemployment problems, all feeds to that.

So I would say that patronage is a consideration in all dollars in the political arena, and that we are political participants. And so I do not criticize that all the time.

Mr. HAYES. Patronage is not necessarily a partisan issue, you know.

Ms. MOSBY. That's right.

Mr. HAYES. It spreads to both sides.

Ms. MOSBY. Absolutely.

Mr. HAYES. My final remark is that I recognize that unions, and this is a fight that we have had through the years, particularly in

the construction field, have been discriminatory in some of its hiring policies. Some places you have to hire directly through the union. But the nonpayment of dues is not a permissible reason for not hiring.

I just want to keep that in mind because people of all races and all creeds and all colors and all sexes, by constitutional requirement, you have to pay dues in order to maintain positions in good standing in any union.

Mr. MITCHELL. Thank you both very much. I appreciate your testimony, as I appreciated the testimony of all of the witnesses who have appeared before us.

I do not want to seem as if I am being unfair, but for the life of me I cannot understand why almost all of the witnesses were able to come forth with a positive picture of their efforts in implementing this section of the law. And yet we have North Carolina which appeared to be almost adamant in its desire to resist implementation of the law.

Well, we will work on it. Hope springs eternal.

Thank you. Thank all of you.

Ms. MOSBY. Thank you, Mr. Chairman.

Mr. LINTON. Mr. Chairman.

Mr. MITCHELL. Yes? I am sorry.

Mr. LINTON. I just wanted to mention that the commitment on the part of the Pennsylvania Department of Transportation is a real one.

Mr. MITCHELL. Yes; I sense that. I really did from their testimony.

Thank you all.

Ms. MOSBY. But for the Black Caucus in Indiana, you would have a North Carolina story there.

Mr. MITCHELL. Well, let me end on a high morale note then. Thank all of you very much for participating in this hearing. It has been most helpful.

[Whereupon, at 12:57 p.m., the subcommittee adjourned, to reconvene subject to call of the Chair.]

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